1917-18
Cenrs.

File No-197-17
S.L.No. 1-4

Memorial of Rachavah, Channabasava & Budan, praying for the remission of the sentence of death passed on them in Criminal Reffered case, no 2 of 1916-17

G. R. S. IX-5]

Previous references.

Ch 16-17, 1-5

Prem

1917

(Ch)

File No. 1917

Serial Nos. 1-4

Later references.

Ch 43-1885 102

GENERAL AND REVENUE SECRETARIAT.

Serial Nos. 1-4

Part B for June

SUBJECT.

Memorial addressed to H.H. by Bhoja Chamakara Kachia accused in Sessions case no. 6 7/9/6, on the file of the Sessions Judge of Shimoga Division

---

4, To the Assistant Chief Court
no. 1. 5170 of 25th June 18
for Copies of Orders passed by H.H.
on the prisoners' memorials

B. Jinnarajiah
9/7/18

W D 83—GPB—50,000—24-7-16

G. R. S. III—1] 1917.

GENERAL AND REVENUE SECRETARIAT.

(~~Courts~~)

NOTES.

File No. 197-17

FILE HEADING.

Memorials of Rachiah, Channabasava & Budan praying for the remission of the sentence of death passed on them in ~~Kadur Sessions~~ Criminal Referred case no. 2 of 1916-17.

From

The Registrar, Chief Court of Mysore

No. 526 Dated 6.4.18 Received 6.4.18

Diary No. 12386	Enclos. 4 Printed Spare Copies.	Serial No. 1

BRIEF ABSTRACT OF LETTER.

Forwards the memorial addressed to H.H. the Maharaja by Budan, Channabasava & Rachia, accused in Sessions case no. 6 of 1916 on the file of the Sessions Judge of Shimoga Division.

NOTES AND ORDERS.

Submitted for orders.

K.N. 8/4

2 Please put up the file in which Govt. decided an appeal being preferred against the order of acquittal passed against Sanna the accused.

69. 20.4.18

Es 11/4

NOTES—First Sheet.

WD 1232—GPB—20,000—18-11-1c

General and Revenue Secretariat. | Cts File No. 197 of 1917-18.

Serial No.

Submitted with Cts. File 16-17

Mysu
11.4.18
MK

The facts of the case are these: Madiga Gura Rao a shanbhogue in Darikere taluq (who had made many enemies for himself, went on the morning of 5th Feb 1917 to Darikere from his village Bagavalli and started back to his village in the evening with a Venkata Rao a Police constable in a bullock cart. He was waylaid near a scrub jungle and beaten to death. The accused in the case who were about 12 in number were suspected and arrested and tried for murder. The Sessions Judge found half a dozen of them (viz 4, 5, 6, 7, 8 & 12) guilty of murder and accused 1 & 11 as guilty of abetment, Sentenced the accused 1, 11, 4, 5 & 6 to death and the rest to transportation for life.

On appeal, the conviction against the accused 5, 6 & 11 was upheld by the learned Chief Judge, and that against the 3rd and by the Paramashivan. As there was no difference of opinion as regards these accused, the case was referred to the second Judge Mr. K. S. Chandrasekhara Iyer who agrees fully with the views of the Chief Judge. Hence all the three petitioners now before Govt. stand Sentenced to death

NOTE—Contn. sheet.

WD A 1789—GPB—60,000—20-8-18—S.

Serial No.

the only ground put forward by the petitioner is that the evidence against him is not worthy of belief.

All the Judges have absolutely no doubt as regards the guilt of the accused Bude and there are no good grounds for coming to a different conclusion in his case as the evidence is overwhelming, and no reasons to show any clemency.

As regards Channabasava, also, there is ample evidence on record to prove his guilt (vide paras 40, 41, 51, 56, 57, 59 & 60 of the judgment of the learned Chief Judge; also paragraph 6 of the judgment of Mr Chandrasekharan). The accused himself confessed to his guilt before the Sessions Judge vide also a petition presented to the Chief Court though he retracted it before the Chief Court later on.

8 The evidence against Rachia also has also been carefully considered by all the Judges & the evidence proves his guilt.

9 The case of all the three depends upon the appreciation of evidence, and the Sessions Judge the majority of the Judges of the Chief Court have come to the same conclusion. The murder was a brutal one, and there are no extenuating circumstances

NOTE—Contn. sheet.

WD A 1789—GPB—60,000—20-3-18—S.

D 1233—GPB—60,CCC—1-12-16—S.

G. R. S. III-2]

General and Revenue Secretariat. | C/o File No. 197 of 1917

Serial No.

for showing clemency to the accused.

Submitted for orders

SB
11/4

Chief Secretary

To 1st member

CBS
15/4/18

SB 16/4

1 Vide Confl. note in the secret file

3763
20/4/16

Secy

20/4

1 Vide remarks

4
16/4

Extra-ordy member

Dewan

SB 20/4.

3 Opinion recorded by the Extraordinary member - (Vide Sealed cover)

2.5.18 KMe

~~Recorded~~

Dewan

5772
4.5.18.

CBS
3/5/18.

SB

NLF

The Dewan desires that the Chief Judge may kindly be

Consulted Confly with preparations now received.

NOTE—Contn. sheet.

(With a Sealed Cover)

CBS 9/5/18 SB / 8/5/18. SB

WD 1233—GPB—60,000—1-12-16—S.

G. R. S. III-2]

General and Révenue Secretariat. | do File No. 197 of 1917.

Serial No.

Subd. with a Draft
K.V.
11/5

In favour of approval
[illegible]
10/5

Chief Secretary

Issue Do
[illegible]
14/5/18

[illegible]
14/5

2 To Sir Cecil C. Dibbs, [illegible]
No D 4624 [illegible]

Forwards the memorials & requests to be furnished with [illegible] confidential opinion as to whether any clemency may be shown.

3 From The Registrar, Chief Court no. 746-B 21.5.18. Returns the records
Rule: Para 14
Subd. The opinion of the Chief Judge will be found in the sealed cover attached hereto
K.V.
21/5

[illegible]
21/5

Chief Secretary

6121
22/5/18

Dewan

[illegible]
24/5/18

There seems to be no doubt of the guilt of Badan on the murder charge. In the case of the other two, the sentence may be commuted to one of transportation for life. If the Hon. Member

NOTE—Contn. sheet.

WD 1233—GPB—60,000—1-12-16—S.

G. R. S. III-2]

C. S. 179
7-6-18

General and Revenue Secretariat. Covers File No. 197 of 191

Serial No.

(with 2 Sealed Covers)

Rec'd 9.30 pm 1/6/18

apres, a Final note may kindly be submitted. Otherwise the Case may be dealt with in the next meeting of Council.

29.5.18

1st member

29/5/18

I agree with the above note

2/6

Ch. Secy)

D. F. N. Submitted

1st member

4/6/18

1/6

4319 7/6

Fair final note signed by Finl & member

to push up.

7/6/18

D. S. N. submitted

Dewany

7/6/18

6452 7.6.18

NOTE—Contn. sheet.

The want of due skill in the Sessions Court in framing the charges must lie at the door partly of the Sessions Judge but partly of the Counsel on both sides, but no objection was taken to any of the evidence and it is perfectly clear that every circumstance which was being laid before the accused were being laid for. There was no prejudice to the defence.

On the whole I can see nothing which would justify me in supporting the memorialist.

Yours sincerely

Arthur Miller

Rec'd 1915/18

Nagpur
17th May 1918

My dear Sir

I have received and examined the memorials sent with your letter of the 11th instant; I find nothing in them to suggest that the convictions are wrong. The memorialist Chunilal says that we were prejudiced by his confession in the Session Court. If Chandrabhan says acted on that confession I

Serial No.

The conviction of the accused - Nemmiah is mainly based upon the evidence of the approver Hemmun who was tendered pardon by the Committing Magistrate. A perusal of the judgment of the learned Chief Judge & Mr. Justice Baron - two very strong pieces of most unreliable evidence is. [redacted], both the learned Judges, have opened the conviction of Budan one of the three accused, though they differ in their opinion as regards the correctness of the conviction of the other two accused. Reasons & Decree Remand

Hon. Justice Chandra Chakravarti & when the appeal was opened, upon the conclusions arrived at by the learned Ch. Judge. Out of the eight accused found guilty & convicted by the Sessions Judge, four have been acquitted [redacted] on appeal by the learned Judges of the Ch. Court, the three remaining alone having been convicted & sentenced by the Hon. Court.

Bearing in mind the briefly summarised nature of the evidence & the principal, particularly that of the approver, I feel inclined & recommend that the case

NOTE—Contn. sheet.

GPB—70,000—17-12-15

Serial No.

of the three recommendations as to the despatch of clemency. Instead of clemency which is the supreme penalty of the law, the ends of public justice, in my humble opinion, be sufficiently satisfied, if the sentence of death in all these three cases, be commuted to one of transportation for life.

If the Governor + three members of Council agree with me in this view, a final Note will be sent up for submission to His Excellency

Wells
20/4/18

Lt. Governor
Chief Secretary
Member

This murder case was a very remarkable one. It was necessary to check the culprit who had confined Lydia and entered into a plot to do away with the deceased - a victim upon the recommendation of his suffered heinous to local police authorities

The Chief Court judge was Khalak

NOTE—Contn. sheet.

GPB—70,000—17-12-15

G. R. S. 12]

General and Revenue Secretariat. | File No. | of 191 .

Serial No.

and by keeping the ~~Judges~~ Courts finding ~~within~~ Confine the sentence There is no question as to guilt. Very allowance has been made for the defect in the prosecution Evidence. I do not think it can be said that the Prosecution was highly unsatisfactory". There is very difficult case for the police to detect and the evidence as accepted by the Chief Court is bringing the guilt home. I have therefore to decide on my opinion give my opinion for heavy Clemency This diabolical plot if Confirmed is proved - upon a those men are Concerned The in my opinion merits the extreme penalty of the law

WJ

27.4.18

As all the three judges are unanimous in the case of Sudan, his case does not seem to call for

NOTE—Contn. sheet.

GPB—70,000—17-12-15

G. R. S. 12]

General and Revenue Secretariat. | File No. | of 191

Serial No.

any consideration. But in the case of the other two in respect of whose guilt there has been a difference of opinion among the judges, I agree with the first Member that the sentence of death may be commuted to one of transportation for life.

R Rowe
2.5.18.

NOTE—Contn. sheet.

GPB—60,000—7-11-13

Final Note by the First Member of Council.

Subject:—

Memorials of Budan, Chennabasaviah and Rachiah praying for the remission of sentence of death passed on them in Kadur Sessions case No.6 of 1916-17.

These papers relate to the memorials of

(1) Budan,

(2) Chennabasava, and

(3) Rachayya,

who have been convicted and sentenced to death in Kadur Sessions case No.6 of 1916, commonly known as the Guru Rao murder Case.

2. In the Sessions Court these memorialists and nine others were tried and the Sessions Judge sentenced ~~six~~ five of them (including the three memorialists) to death and ~~two~~ three others to transportation for life, acquitting the others.

3. On appeal to the Chief Court, the conviction of five of the prisoners - other than the memorialists - was quashed, and as regards these three persons, the Chief Judge held all three of them to be guilty, while Mr.Justice Paramasiva Iyer agreed with the Chief Judge as regards Budan and differed from him as regards the other two.

4. Owing to this difference of opinion the appeal was heard again by Mr.Justice Chandrasekhara Iyer, who agreed in the conclusions arrived at by the Chief Judge. Hence all the three petitioners stand condemned to death, and all three have submitted memorials for mercy.

5. The memorials have been considered by the Members of Council and the opinion of the Chief Judge has also been obtained.

6. I was at first of opinion that ' bearing in mind the highly unsatisfactory nature of the evidence for the prosecution particularly that of the approver', ' the case of the three memorialists was one deserving of some clemency', and that "the ends of justice would be sufficiently satisfied if the sentence of death in all these three cases be commuted to one of transportation for life."

7. The Second Member, Mr.Banerji, was of a different opinion and considered that there was no justification for clemency.

Sealed cover

8. The Extraordinary Member of Council was of opinion that no clemency was called for in the case of Budan - about whom all the three Judges of the Chief Court were unanimous, but that in the case of the other two the sentence of death might be commuted to one of transportation for life.

—do—

9. The Chief Judge, who was confidentially consulted under the instructions of the Dewan, is of opinion that on the whole he can see nothing which would justify him in supporting the memorials.

Pages-2 office Notes

10. After a consideration of these opinions the Dewan has recorded a note that there seems to be no doubt of the guilt of Budan, and that in the case of the other two the sentence might be commuted to one of transportation for life.

11. I also agree in the above which seems to be the view of the majority of the Council.

12. I therefore recommend that the memorial of Budan may be rejected and that the sentence of death on Chennabasava and Rachaiya may be commuted to transportation for life.

7th June 1918

First Member of Council.

Submitted to His Highness.

I submit herewith a Final Note by the First *Member of Council on the subject of* the memorials of Budan, Chennabasava and Rachiah praying for the remission of the sentence of death passed on them in Kadur Sessions case No.6 of 1916-17, *for His Highness' gracious approval.*

M. Krishnaraja

Dewan.

8th Jan 1918.

MR

Record of Cases submitted for the Orders of His Highness the Maharaja

Subject.

Memorials of Budan , Chennabasava and Rachiah praying for the remission of the sentence of death passed on them in Kadur Sessions case No.6 of 1916-17.

No 1617
12.6.18

Order.

~~KRM~~
12/6/18

4719
27.6

27/6

21
28.6.18.

29.6.18

23
4/6

Chief Secretary
13-6-18

15.6.18

WD 1233—GPB—60,000—1-12-16—S.

G. R. S. III-2]

General and Revenue Secretariat. | C/o File No. 197 of 1917.

Serial No.	
	Subd. with draft & fair yst. H's order and a draft to the Registrar, Chief Court. KN. 15/6 Chief Secretary) 17.6.18 In approval Signature Dewan) 18/6/18. Signed by the Dewan - 22.6.-18. Issue 20/6/18 24.6.18.
4	To The Registrar Chief Court No 5140 25th June 1918. Forwards copies of orders passed by H.H. the Maharaja on the Prisoners memorials.

NOTE—Contn. sheet.

No. 526
for
Enc. 48 memos of 24 files
& 10 Books.

Bangalore,

Dated 3rd April 1918.

13173

From

THE REGISTRAR OF THE

CHIEF COURT OF MYSORE.

To

THE SECRETARY TO GOVERNMENT,

~~GENERAL AND REVENUE DEPARTMENTS.~~

of Mysore

Sir,

I am directed to forward a memorial addressed to His Highness the Maharaja by Budan, Channabasava and Rachia, 5th, 6th and 11th accused in Kadur Sessions Case No. 6 of 19 16-17 on the file of the Sessions Judge of Shimoga Division and appellants in Criminal Appeal No. 141, 142 and 143 of 19 16-17 on the file of this Court. Criminal Referred Case No. 2 of 1917-18

The entire record of the case is herewith forwarded.

I have the honor to be,

Sir,

Your most obedient servant,

H. Gopalaswamy Iyer

Registrar.

GPB—1,000—16-8-12

"Appeal for Mercy"

BEFORE THE GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE.

In the Chief Court of Mysore, Bangalore.

Criminal appeal No. 142 of 1916-17.
Criminal referred case No. 2 of 1917-18.

Rachaiah	4th accused.	Appellant.
Government of Mysore.	VS.	Respondent.

The humble memorial of Rachaiah 11th accused most respectfully showeth:-

1. The memorialist was one of the eight persons that were convicted for having, it is alleged, murdered one Nadig Guru Rau of Tharikere Taluk, by the Sessions Judge of Shimoga in Kadur Sessions Case No. 6 of 1916-17.

2. On reference and appeal to the Chief Court the conviction of only the 5th accused Buden was confirmed by both the learned Judges ie., the learned Chief Judge and Mr. Justice Paramasiva Iyer and the case of the memorialist and of the 6th accused Chennabasava was referred to the third Judge as the Chief Judge confirmed their conviction also while the remaining five were acquitted by both the learned judges.

3. The memorialist was charged by the learned Sessions Judge, only under sections 302 and 114 of the Indian Penal Code for being present at the time of murder of Nadig Guru Rau at Savemaradi Kaval and for committing the murder, while he is convicted under sections 302 and 109, evidence being illegally let in to prove that he was present and conspired with the other accused at other places at other times; whereas from the confession of the 6th accused Chennabasava it is evident that he was not all present at the scene of murder (section page 41 line 23 and line 26).

The approver's evidence on this point is highly discrepant and varies from statement to statement (compare page

page 60 lines 30-35 with page 186 lines 35-50 and his confession statement typed separately and page 191 line 20-24).

4. The approver cannot be relied upon at all. Mr. Justice Paramasiva Iyer disbelieves him entirely. Even the learned Chief Judge, who believes him partly has come to the conclusion that he was not present at the scene of murder.

5. The learned Chief Judge disbelieves the evidence of all the witnesses that speak against the memorialist except Pws. 34 and 35 Nanja and Thalavar Hanuma. These withesses contradict the approver's story and contradict each other - (compare page 85 lines 30-45 with page 59 lines 10-20 and page 87 lines 65-10 and line 42). These are men of no substance and P. W. 34 is an enemy of the 11th accused. Even if thier evidence were to be believed it is absolutely insufficient and too vague to sustain a conviction and sentence of death. They only prove that 20 days prior to the date of murder the memorialist was in the company of the other accused most of whom are acquitted at a village called Betta Thavarekere far away from the scene of murder.

6. Even if the evidence were to be believed it is insufficient to warrant a conviction of murder. The police man Venkatramana who was present at the scene of murder and cartman Kunta Hussani both emphatically said that they did not see the memorialist at the time of murder and that they know him personally. The learned Sessions Judges remarks at page 37-40-50 and at 18 lines 1-20 clearly prove that it was a desparate act. This fact taken with the circumstance that the learned judges differ in their opinions. Under the circumstances the memorialist prays that the sentence of death passed on him may be quashed and he may be released from the Jail.

Signed before me

Chief Jailor,
Central Jail, Bangalore.

1-6-18

"Appeal for Mercy"

BEFORE THE GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE.

In the Chief Court of Mysore, Bangalore.

Chennabasava 6th accused	VS.	Appellant
Government of Mysore.		Respondent.

The humble memorial of Chennabasava, 6th accused, most respectfully showeth:-

1. The memorialist was one of the eight persons that were convicted for having, it is alleged, murdered one Nadig Guru Rau of Tharikere Taluk, by the Sessions Judge of Shimoga, in Kadur Sessions Case No. 6 of 1916-17.

2. On reference and appeal to the Chief Court the conviction of only the 5th accused Buden was confirmed by both the learned Judges ie., the learned Chief Judge and Mr. T. Paramasiva Iyer, and the case of the memorialist and of the 11th accused Rachaiah was referred to the third judge as the Chief Judge confirmed their conviction also while the remaining five were acquitted by both the learned judges.

3. The charge against the memorialist is too vague and indefinite. It does not specify the part taken by the memorialist and the instrument used by him.

4. Although the learned Judges of the Chief Court have rejected the so-called confession of the memorialist yet they are evidently prejudiced by it.

5. The approver's story as regards the part that the memorialist took at the scene of murder is highly discrepant and varies from statement to statement (compare Page 186 line 30-50 with the approver's confessions separately typed and with page 191 line 20-40 and page 60 line 15-40.

6. Even the learned Chief Judge rejects the evidence of the approver as regards the actual murder is concerned.

Rejecting the approver's evidence there is no other evidence connecting the memorialist with the murder and evidence of Gowravva P. W. 12 and Daval Sab P. W. 15 and others even if believed only proves that the memorialist was found on the date of murder somewhere near the scene of murder and this proved nothing against the memorialist as on that day several people were going by that road for Anthragattammas Jatra. Further no reliance can be placed on the identification by these witnesses as they saw him only in the dark for the first time in their lives and as the identification parade was held by the Police.

7. Therefore the memorialist most humbly prays that the sentence of death passed on him may be quashed.

Signed before me.

Chief Jailor,

Central Jail, Bangalore.

1-6-28

"Appeal for Mercy"

To

The Government of His Highness the Maharaja
of Mysore.

Under section 401 of the Criminal Procedure Code, the humble petition of Buden, sentenced to death by the Sessions Judge of Shimoga in the Tarikere Guru Rau murder case and confirmed by the Chief Court of Mysore shewth as follows:-

That the sentence of death passed on him is not justified by the evidence in the case.

The only evidence against him are:-

1. The first information report containing the name of Buden.
2. The evidence of Bala and another two men of the Savemaradikaval who speak to the exchange of words among the assassins hiding there in which the word Buden occurs.

3. This is hardly sufficient, in the absence of any direct evidence and when the evidence of the approver has not been believed in most material particulars by the Judges of the Chief Court, to be the basis for a conviction and much less for a sentence of death.

4. It is unsafe to relay on the injury which this appellant has as those who had similar but more important injuries have been acquitted.

5. The evidence of Bala and another though obtained early is insufficient as it was not accompanied by identification of the prisoners in the lock-up is unreliable. Thus the result is that their statements stand without any identification of the man called Buden. There is much discrepancy in their evidence which could hardly be a basis for such a severe sentence.

6. Besides these, there is no reliable evidence for the

the conviction of this appellant as such evidence has been rejected by Mr. Justice Paramasiva Iyer and mostly discredited by the Chief Judge.

7. Since the case against all the accused has been disbelieved, the appellant prays that the case against him should have also ~~have~~ been disbelieved and under the circumstances the sentence of death passed on him may kindly be quashed.

Taken before me

Chief Jailor,
Central Jail, Bangalore.

Left thumb
mark of Accused
No. 2329
of the B.C. Jail

and the 11th accused Mahir had a recent cause of offence; the 2nd accused Chikkariappa, the 3rd accused Ramana Gowda and the 10th accused Murudo Gowda are also said to have been enemies of the deceased.

4. The theory of the prosecution is that these men together with one Veria of Mukkampadi conspired to murder Guru and hired for that purpose a gang of assassins from some of the villages in the northern part of the State through the 11th accused who had connections by marriage in these parts: and the gang finally collected for the murder consisted of the 6th accused Hussein, the 8th accused Ibram, the 9th accused Ramakrishna, the 7th accused Rama, the 5th accused Thimmappa, the 4th accused Subbanna, who had been for some years a companion or servant of Mahir the 11th accused, and the witness Kusuma Rama who has given evidence as an approver, under pardon.

5. The Sessions Judge has acquitted the accused Chikkariappa, Ramana Gowda, Subbanna and Murudo Gowda, and Hussein and Veria have not been arrested. The other accused have been convicted, the 1st accused Linga Gowda and the 11th accused Mahir of abetment of murder, and the others of murder.

6. The case rests principally on the evidence of the approver Kusuma: if he is discredited altogether there is probably not sufficient trustworthy evidence to warrant the conviction of any of the accused. He has been believed by the Sessions Judge and the assessors, but not wholly; his evidence against the accused Chikkariappa, Ramana Gowda, Subbanna and Murudo Gowda has not been accepted, and they have as has already been observed been acquitted. The acquittal of Chikkariappa is challenged in an appeal by the Government and the evidence against him therefore to be considered by us

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7. It is not necessary to discuss in detail the evidence directed to prove ill feeling between Guru Das on the one side and Jaga Gowda and his friend Hanuma on the other. Both Guru Das and Jaga Gowda were men of some influence in their neighbourhood and members of opposing parties, and their quarrels were mostly in connection with land: one dispute culminated in a riot in Dhulkhali early in November 1915, in the course of which Jaga Gowda was beaten somewhat severely by Guru Das's men and had to go to Bangalore for his injuries in the hospital at Lalbagh and also at Chikpet. Cases are pending in the Police Court. The police were ordered to take steps against their constituents, and it is the case of the prosecution that Jaga Gowda and Hanuma with other members of their party determined to take the law into their own hands and do away with him. He was known also in the habit of giving the local police help in the detection of crime committed in the Bangalore and adjacent talukas and was it would not believed rightly or wrongly to have influenced with them. Whether there was any justification for the belief is indicated by the evidence of/the eye-witnesses.

We have then the murder of a man of local influence, who had made a number of enemies and was a friend of the local police, and we find that his companions at the time of the murder were unable to identify any of his assailants. Naturally strong suspicion fell on his enemies and we are told by the Public Prosecutor that the officiating Deputy Commissioner on the 6th of January instructed the 1st, 10th and 11th accused, Jaga Gowda and Hanuma and Venkata, as persons who were probably guilty. In these circumstances it is obviously necessary to scrutinise the evidence with great care, for it is not unlikely that the police were likely to leave no stone unturned in order to secure evidence against the suspected men, especially when the Deputy Commissioner had expressed his belief in their guilt.

8. Before discussing the evidence it may be as well to notice an objection taken by Mr. Mahadeva on behalf of the

1st

first accused Linge Gowda, to the form of the charge. The charge against him is that he about the 6th of February 1917 at the Kavanurdinaval (the place at which Guru Rao was killed) abetted the murder of Guru Rao by certain persons by supplying ~~weapons~~ weapons to them and promising them reward.

10. It is obvious that this charge is hopelessly incorrect. There is no evidence that any weapons were supplied or reward promised at the Naval or on the 6th of February and the Government Advocate concedes that it was by a mistake that the charge was not altered and amended in the Court of Session. Mr. Shanmathan's objection however is not to the mistake as to date and place but to the fact that the charge does not allege abetment by conspiracy whereas the evidence against his client is directed to prove a conspiracy and the Sessions Judge deals with the case as if it was the conspiracy which had to be proved.

11. The conclusion at which I have arrived renders it unnecessary to decide whether in these circumstances the conviction of Linge Gowda could as a matter of law be upheld, but I observe that the evidence led to prove his complicity was admitted without objection, the witnesses were cross-examined, and obviously every one knew what the prosecution really alleged against Linge Gowda, and what he had to meet. Indeed I do not think any one in the Sessions Court paid any attention to the form of the charge, the best of the evidence, if not all, is relevant to the charge as drawn up, if we correct the date and place, which though incorrect evidently did not mislead any one.

12. I may say at once that I do not believe that the whole of the prosecution story is concocted by the Amildar or the police, or Nanjunda, or Kolluri, or Sra Lamappa, persons who according to the Amildar gave him the earliest information as to details of the preparations made, but who

were

were not according to their own account themselves cognizant of the actual facts of the murder on the 6th of February.

13. There was nothing suggested in the argument, and nothing of any value appears in the evidence to suggest, why the accused Hussein, Sudan, Shemsheddine, Nur, Ahmed Sab, or Abdi should have been accused falsely by any one connected with the case, and I cannot believe that the whole of the story told by the approver Hamsa to the Magistrate at Jeveniore on the 19th of February was the product of his own imagination, or was taught to him by the police officer who arrested him on the 15th or 16th. That statement is not evidence against the accused but a great part of it has been put to the witness in cross examination to impeach his credit, and if the prosecution make use of that portion of the statement to corroborate the witness under section 157 of the evidence Act, there is no reason why they should not do so. That statement and the statement made to the Naildar on the 16th of February, which seems to have been put on the record at the instance of the Sessions Judge, have been the subject of much discussion in the argument: the latter cannot under section 162 of the Code be used as evidence against the accused either to corroborate the witness or as direct evidence, for the Naildar though a Magistrate was the investigating officer and the statement is recorded not under section 164 but clearly under section 162; but the accused was entitled to put it to the witness to impeach his credit. They do not appear to have done so in the Sessions Court, probably because they did not think of asking the Sessions Judge to look at it under the provisions of section 162, but as the Sessions Judge has of his own motion had it read in evidence, we have had to consider it in so far as it helps to discredit the statement of the witness in the Sessions Court. I shall refer later to those statements but at

present

present I desire only to observe that they do not convince me that the approver witness was taught the whole of the statement he made in the Court of Session. My doubts have been rather whether parts of his statement have not been dictated so as to afford evidence against some of the suspected enemies of the deceased, and to secure their conviction.

14. The story of the approver is a long one, but in so far as it mentions one or two previous attempts against Gurusami, and various stages in the preparation for the murder, it is of value only if it be found that the murder was actually committed by the persons who made those earlier attempts and arranged the preparations. It is desirable therefore first to decide whether or not the approver was or was not present when the murder was committed.

15. His story on this point in the Sessions Court is that he left his companions at the village of Kondodhalli about the end of January and returned to his own village of Ajjarmur: he was called on the 11th of February by Sukira the 1st accused, and went by train to Ajjarmur: after a visit to Gundal Mill he walked to Kolhe where he spent the night at Gulvadi, and on the next day the murder was committed on the afternoon of the 13th. The corroborative evidence on this point is that of the outcaste Bala, who says he saw him with the 5th accused Kuban and some others 6 or 7 in all, seated under a tamarind tree in the canal about 2-45 in the afternoon. Kuban's companion Ku (a witness for the prosecution) does not mention him among those he saw. There is also the evidence of the witnesses Srinath, Vijaya, Moto and Govya servants of the deceased who say that Ramaya came with others to their master's office late on the day after the murder. The evidence of Lakshma (prosecution 20th witness) that he says that Ramaya was one of those who drove in his cart to Channagiri from Kondodhalli about the 11th of February,

and

(in the evidence of Hanumaboyi who says he saw the approver and others start for Attigiri on the night of the 6th of February. The evidence of Azizulla and the other servants of Linge Gowda on this point is I think of doubtful truth. Azizulla, Pota and Devya when questioned at the coffee garden denied that any strangers had been there, and while it is possible that they did so in their master's interests, it is unfortunately equally possible that their first denial was true, and that their subsequent statments were made at the instance of those to whom it may have seemed important to secure the conviction of Linge Gowda. Hanumaboyi has given evidence on several points, but he was not examined before the 18th of February and much of his evidence seems ~~to be im-~~ some to be improbable probable. I do not rely on him.

16. Moreover in the earliest statements made by Hanuma the approver he says nothing of any visit to Linge Gowda's coffee garden, though it is an incident he is not likely to have forgotten and though he narrated what had happened after the murder. As to that he made discrepant statements He told the Faildar that after the murder he and the rest of the assassins went to Hosahalli where Linge Gowda gave them meals and dressed the wounds of those who were wounded: after burning their blood-stained clothes in a field they spent the rest of the night and the next day in a garden and then went to Benkipur. He told the Davengere Magistrate that they stayed in a garden 4 or 5 days, but said nothing about a visit to a coffee ~~garde~~ garden in the hills.

17. And it seems unlikely that the story of the visit to the coffee garden can be true; it is no doubt probable enough that a place in the hills would be chosen for the concealment of the men injured in the a[ffray] but Linge Gowda would hardly have ventur[ed] back by road in a cart on the 11th of Fe[b] wounds still unhealed, when the Faildar w[as]

the boy to Ingudahalli, and the police were searching the hilly country round Kudahalli. It seems probable that the visit to Kudahalli is an invention intended to strengthen the case against Bhoja Gowda, and consequently it is unsafe to accept the evidence of Anjalli and the other servants of Singe Gowda on this point. Apart it is true is not shown to have contradicted himself like the others, but he is a young servant, a person of no standing, apparently dissatisfied with the condition of his service and likely to be easily influenced by the police.

18. Apart from this evidence there remain on this point the accused themselves and the prosecutor's witnesses. Their evidence may be, and I think is, true to the best of their belief: it is possible that the murderers spent the afternoon of the 6th of February in the jungle, and probable that they were seen by persons passing into there; it is also probable that they made their way to their villages by road avoiding the railway. But it may be open to doubt how far the identification of them can be relied on. There is no evidence that the ability of the witnesses to recognise him was tested in any very satisfactory way, neither of them had ever seen him before and no one says that he is a person of very striking appearance.

19. Reasons are also stated for refusing credence to the prosecutor's allegation of the presence at the murder: he was muttering that on those in the car which was true to time if not continuously under his mind. But there is no proof that he was incapacitated from walking and he says he could walk. The hope of reward may have induced him to endure the pain and I do not find anything in the evidence which would lead me to reject his story merely on this account. It may be thought unlikely that he would have been chosen to take part in the affair but it may be borne that the number of persons available

evidence for him is his own and the evidence is that it was not easy to collect a suitable one. But his account of his journey from his village to the Laval is by no means consistent. In the Sessions Court he stated that he called by [illegible] the 1st accused, and went with him to the Podagam Kovil junction and thence to Ajanur, and then to the house of the 2nd accused Kandiah at Kondaddimalli, where the 1st and 2nd accused Kandiah and the hired conveyance were at the Laval. Leaving the house of Kandiappa they went as far as Kilo, where the pain in Kandiah's leg induced him to stop for the night, while Muthu went on to the Laval promising to wait for him on the road in the morning. To the Magistrate he said that although a brother of Kachia sent for him from Kondaddimalli and told him to go to the Laval that brother himself did not go. He went there stopping at Kilo on the way, and found Kandiah and the others there. The stories are distinctly discrepant but though in cross examination he is made to repeat his account of this affair and his previous statements are put to him he does not seem to have been asked in re-examination to explain why he said at one time that he was called by Kachia, and at another that he was called by Kachia's brother. He seems to have explained generally that such discrepancies are due to lapse of memory and others to the fact that at previous he was not questioned in detail, but was not re-examined at length. Then his statement that he went to the 2nd accused's house is not easily explained, but no doubt it is probable that if [illegible] under advice to screen them the case against Kandiah and that the earlier statement need not on that ground be necessarily discredited.

20. There is another difference: in his earliest statement (exhibit D1) he says that he was absent in his village for 10 days before he was summoned to the Laval, but in

in the Sessions Court he says he was there only 3 or 4 days. In the former case he could not if the witnesses Ismail and the station master of Shivani station are to be believed, have seen the accused Iman and Muhamad Ali before he reached the Naval; in the latter case he might have done so and in the Sessions Court he says that he did; he said so also to the Magistrate at Davangere (Exhibit D15). It is difficult to say what truth there may be in these statements; but it cannot be said that the discrepancies in them necessitate the inference that Ramana did not return to the Naval on the 6th of January. Whether he left his companions at Kondedahalli before the arrival of the 'new men' Iman and Muhamad Ali, or whether he left them at Kondedahalli after these men had appeared there, he may equally have returned to earn his reward.

21. But Ramana's account of the murder itself is not altogether consistent. To the Davangere Magistrate and in Exhibit D1 he said that Thammaiah was the man who struck the deceased with a chopper; in the former statement he says that he struck four blows. In the Sessions Court he attributes the different cuts on the head of the deceased each to a different man. This difference is important but may be due to an attempt to strengthen the case by proving that another man took an active part in the murder, a quite unnecessary embellishment on the earlier statements, but one of a kind to which experience suggests that ignorant police officers are rather inclined; and in this case perhaps it was hoped to explain the blood stains detected on three clothes in the house of Hinge Gowda on the 26th of February after the statement to the Davangere Magistrate had been made. In the Sessions Court he attributed the variation to fear and the pain in his leg neither of which affords a convincing explanation in the circumstances.

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22. The medical evidence though of course that is by no means conclusive, suggests the probability that the blows were not given by weapons with blades so curved as those of the sickles produced and that the earlier statement of the witness is more likely to be true than the later.

23. The police constable Venkata Rao alleges that when thedeceased fired his revolver one of the assailants dropped a chopper in the cart and fell. Hanuma says that no one was hit by the shots fired. It is suggested that this discredits Hanuma's story, the theory being if I understood Dr. Swaminathan aright, that one of the assailants was probably killed or injured and was carried off by his companions, that this man being some one different from any of the men named by Hanuma the probability is that the assassins were altogether a different gang, and that the police could not coach Hanuma to tell this part of the story so as to accord with Venkata Rao, because they could not safely give a name to the man, no corpse and no one injured by a gunshot wound having been discovered. To my mind this is building on a very unsafe foundation: the cart was in motion when the shot was fired, it was so dark that the assailants could not be clearly identified, and Guru Rao was in all probability very frightened: the revolver produced is a small short barrelled weapon, and though the assailant was close to the cart it is as likely as not that he was not hit, and that if he fell he stumbled stopping back from the cart in alarm. Hussaini the cart driver no doubt corroborates Venkata Rao's assertion that a man fell but I doubt if he could have seen this distinctly from his position in the cart: he very likely heard it from Venkata Rao afterwards.

24. A more serious discrepancy is found as between Venkata Rao's first information (Exhibit P12) and his deposition in the Court of Session. He told the Bailiff that

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he cut the throats of three persons, but in the Sessions Court he contents himself by saying that he dealt blows at them as they were going to run into the cart and does not say that he cut at or to the throat of them, though to the Committing Magistrate he said he hit two or three persons. [illegible] account of Ramesh's story (Ramchandra and Ramesh) were wounded in the head and [illegible] in the hand, and this corresponds with the evidence of the medical officer. He found the three persons (except the one of February at Chemagiri. If [illegible] so really inflicted injuries on the hands or arms of these, the approver's story is discredited to some extent, unless he have in the dock all the persons who are mentioned by him as having participated in the attack, and only one of them, [illegible] out on the hand: the scar found on the [illegible] hand and of the medical officer is right, more than [illegible] old on the 20th of February and from the description given of it in the deposition of the witness and in the certificate given by him, it is not likely to have been caused by the weapon used by Venkata Rao. I am not however convinced that Venkata Rao's first statement is accurate on this point, it seems likely that he dimed his blows somewhat at random and did not note their exact effect in the half-darkness.

[illegible] approver's account of the matter in that the wounds received by the assailants were dealt by Guru Rao himself, and he does not mention having cut one of those who was already [illegible] on his own showing, he is not likely to have [illegible] what happened. [illegible] due to the cart [illegible] and when the cart was driven on first it was attempted to escape, and he only came up when it was overturned. [illegible] while the cart was being overturned, and after the murder of the driver and Venkata Rao, that the chopper was dropped and picked up by Guru Rao, who then dealt blows

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at Hussein, Ludam and Chennabasava. In Exhibit D$_{10}$his examination before the Committing Magistrate he does not say how his comrades received their injuries. Nor does he say anything on this point in Exhibit G$_1$, and to the Sovereign Magistrate he says that Guru Rao struck Ludam on the hand, and that it was then that the other occupants of the cart ran away.

26. This accords better with Venkata Rao's statement except in regard to the blow given to Ludam, and it is probable that Venkata Rao's story is more accurate than Hanuma's. It is likely that he remained in the cart until it was overturned; he would not leave the comparative safety of its interior earlier than was necessary and as he was sitting at the back it is more likely that he struck the blows at the men attacking him, than that Guru Rao who was sitting in the middle, behind him, was able to do so.

27. I think therefore that Hanuma did not really see who struck his comrades, and that his statement in the Sessions Court is inaccurate in that respect.

28. Chennabasava says in his confession made in the Court of Session, that his and Hussaini's wounds were caused more or less accidentally; when Guru Rao dropped the chopper it fell on Hussaini's head and then on his own this confession I think must be disregarded altogether. It was made towards the end of the trial after he had heard all the evidence, was withdrawn after conviction, again reiterated in a supplementary petition of appeal, and again withdrawn in person in this Court. It seems likely that it was made largely with the intention of securing the acquittal of the 9th accused Lakshmana and in these circumstances it is unsafe to rely on it for or against either the maker or the other accused.

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29. There is a statement of the approver in connection with this part of the case, which is relied on by the Government Advocate as to some extent corroborating the deposition in the Sessions Court. In the confession made to the Magistrate at Davangere, Hanuma says "three persons Channabasappa, Hussein and Budan received injuries; holes are caused in the heads of two and the hand of one is cut". The importance of that statement is that it was made before any of those three persons had been brought before the Amildar. According to the witness Gurumurthy (prosecution 7th witness) Chennabasava was arrested on the 18th of February at the village of the 9th accused Lakshmana about a mile from Kallur (the Amildar was then at Kodaganur) and was sent to the hospital at Chennagiri. The certificate regarding him is dated the 23rd of February and those relating to Budan and Hussein are dated the 26th. The date given by the witness De Souza in the Court of Session for his examination of Chennabasava seems to be wrong or has been wrongly recorded. But this statement of Hanuma is of course not conclusive of his knowledge of the details of the murder, for even if he was not present at the time he might between the 6th and the 18th of February have ascertained the result of the attack. The accused Hussein is an inhabitant of the same village Kallur.

30. Another circumstance to be considered in this connection is the alleged distribution of money after the murder in Exhibit Q_1 the approver allots Rs.100/- to Chennabasava and Hussein together: in the Committing Magistrate's Court he allots Rs.20/- to himself, Rs.20/- to Imam and Muhamad Sab and Rs.150/- to Hussein and Budan; in the Sessions Court he allots nothing to Imam and Muhamad, but Rs.30/- to Chennabasava. These contradictions are irreconcilable, and if the witness Chikkanna (Prosecution 17th witness) is telling the truth the later statements are not likely to be true.

31. There is one other circumstance to be considered: in Exhibit C_1 Hanuma told the Amildar that when Judan, Hussein and Chennabasava, asked for Rs.100/- to bring more assassins, he himself offered to do that work, and there was some slight quarrel over that. That statement is not repeated to the Magistrate at Davengere, nor in the Court of the Committing Magistrate or the Sessions Judge. That may be because the quarrel was insignificant, or it may be because, like Kollurappa the approver gave up the enterprise after his quarrel and returned to his village. The reason he gives for going there is that he had left his house some time before, a somewhat inadequate reason, if the 'new men' had just been brought in, and the adventure was likely to be taken in hand again at once.

32. As I have said above I am unable to accept the contention of the defence that the approver's story is false all through, and that he had nothing to do with the preparations for the murder at any time. I do not think that is likely, but I do not doubt that there is a good deal of falsehood in his narrative. I have rejected his account of the visit to Atigere and I do not believe that he ever visited the Yenahole Mutt in Harihere; it is a matter of difficulty to find out what is true and what is not in his statements. On the 16th of February the police had information from Manjunda, Erabasava and Kollurappa, and they knew from Venkata Rao and Husseini the details of the attack on Guru Rao's cart, but they had no account which included the conspirators among the murderers. They had to fill that up, and it is fitted by the approver's statement, some of which may probably be true and some false.

33. All the circumstances which I have examined in detail appear to me to be inconclusive. In so far as they consist in differences between Hanuma's account of the matter

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and Venkata Rao's story they may be due to the darkness and confusion attendant on the attack, but the self contradictions are not so easily explained. If Ramana really came from Kollur to the Naval on the 5th of February he must have known on the 14th who sent for him and the reason for it; he can hardly have forgotten whether Subba came to Kollur for him or Achia's brother came to Kollur and brought him to Bandenkalli, or came on for him to Bandenkalli and sent for him from there. He can hardly have forgotten whether he had been 10 days or only 4 or 5 in Kollur before the call came and he cannot have forgotten whether he visited Chikmagalur at Bandenkalli on his way. If he were really present when the partners received their reward he can hardly have forgotten how the distribution was made.

37. It is significant that in Exhibit C_1 he does not state that he himself received anything: he has been observed above to say only that Kunchi and Channakeshava received Rs.100/-. Kunchi lives in Kollur, and this statement supports the possibility that Ramana may have heard from him that he received but knew nothing about the rest at that time.

38. It is a matter of more conjecture why if he was not present at the murder he was selected to give evidence as an approver. The police had obtained information from Sanjana, Ramana and Kolluraya, but that information did not carry them down to the date of the murder itself. Sanjana abandoned the conspiracy in December 1916, and Ramana and Kolluraya left in January 1917; it is at least a plausible conjecture that Ravin, not a fourth witness the police were not willing to let him too tell them on the ground that he left the gang after quarrelling because he was not entrusted with money to bring home.

39. However

36. However that be having regard to the difficulties in the way of accepting Hanuma's account of his journey to the Naval and the events which followed on the murder and to the doubt which attaches to the evidence of identification by Kala and Malappa the cartman, rejecting the evidence of Linge Gowda's servants, I am led to the conclusion that it is unsafe to accept Hanuma's evidence as to the facts of the actual murder.

37. It remains to consider whether in that case any of the accused can be convicted.

38. I see no reason to doubt the statement of Hanuma that Hussein, Budan and Chennabasava were members of the Gang while he was connected with it. No reason is shewn why they should be falsely charged - It is probable that Lakshmana also was one of the Gang but I need not deal with his case, as he has been acquitted.

39. I am afraid that all the evidence of the acts done by the murderers immediately after the murder must be rejected; I have already considered that of Thippa, Thota, Devya, Hanumaboyi and Azizulla Khan, and there remains only Kala (Prosecution 38th witness) and he does not refer to any of the accused Hussein, Budan or Chennabasava in this connection.

40. As to what happened later there is the evidence of the cartman Malappa (Prosecution 20th witness) and Mahadevanna, which I think may be accepted; but unconfirmed by other evidence it will be unsafe to rely on the identification by a single witness of this description. As regards the accused Chennabasava however the evidence of Malappa is confirmed by Mahadevanna and I think must be accepted as shewing that this man travelled from Nanahatti to Chennagiri a few days after the murder. Then there is against Chenna-

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Chennabasva the evidence of Gauravva a Kurubar woman who says she met him in the road near the Naval shortly before the murder: her presence there along with a man who was she says her brother-in-law, but who is not a witness, is confirmed by Venkata Rao and is mentioned in his first statement, Exhibit P 12. The account given by Gauravva of her meeting with Chennabasava shews if true, and I see no reason to question it, that she had ample opportunity of recognising his features. This evidence may be accepted, confirmed as it is by Naval Sab the brother of the cart driver Husseini, whose evidence is also I think probably true. Nayath Sab (Prosecution 22nd witness) who drove the accused Chikkariappa to Tarikere says that earlier in the day Chennabasava obtained a lift to Tarikere in his cart and this too is not improbable in any way.

41. When we have the fact that Chennabasava had a wound on his head, and that he paid a debt with a currency note for Rs.100/- a few days before his arrest by the police. He does not explain where he got the currency note, but as regards the wound he says he struck his head against the bamboo eaves of his house. He did not however call any evidence to prove this. Venkata Rao no doubt does not say that he struck any one on the head but I have already dismissed that part of his evidence, and I do not think he can have been very sure where his blows fell. Even apart from the wound, there is in my opinion evidence sufficient to justify the conviction of Chennabasava.

42. The evidence against Rudan so far as it relates to the events of the 6th of February is that of the goatherds Nala and Era. According to these witnesses Rudan was walking about while others were seated near a bush: Nala says that Rudan abused him. The evidence of these witnesses was obtained on the 16th of February by the Amildar, and

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they are not persons who are likely to have come forward at once of their own accord to tell the police what they had seen. It seems to me therefore that they are probably telling the truth to some extent at any rate though Ira's statement suggests that he may not have very clearly seen the men sitting near the bush. I accept the statement of Bala that Ludan abused him; he is likely in the circumstances to have noticed the man who did that. There is also the evidence that Ludan had a cut on his hand and there is the evidence of Venkata Rao and Husseini the cart driver that some one called out the name of Ludan at the time of the murder; this statement is found in Exhibit P 12 the first information given by Venkata Rao at a time when there was no evidence of the identity of the murderers, and it corroborates the other evidence. Whether the cartman Malappa's identification of this man is trustworthy or not, there is sufficient evidence to justify the conviction.

43. As to Hussein I am not sure that Ira's recognition of him is to be trusted and Bala does not identify him Malappa the cartman(Prosecution 20th witness)states that he drove him and it may very probably be true that he did, but the method adopted by the Amildar for testing the power of the witnesses to recognise the persons they had seen on the occasions as to which their evidence was directed was not very satisfactory and I hesitate to act on the statement of this witness alone. The only other evidence apart from the evidence of Kosalalli and Attigiri witnesses which I have rejected is the fact that Hussein had a wound on his head, and that though it undoubtedly confirms to some extent the evidence of the approver that he was one of the gang, is hardly sufficient corroboration to warrant his conviction, though I have little doubt that he is guilty. He must be acquitted.

44. The

44. The other persons alleged by Hanuma to have taken part in the murder are Imam, Muhamad, Lakshmana, Machia and Akira. Lakshmana has been acquitted.

45. As regards Imam and Muhamad it is not quite clear whether Hanuma intended the Amildar to believe that these men were brought to Gondedahalli before his own return, or whether he meant that he first saw them at the Naval. It is in these circumstances open to doubt whether he ever saw them at all before the murder. In Exhibit C_1 his narrative indicates that he left the gang during the absence of Hussein, Budan and Chennabasava who had gone to bring new men, and that on his return he found them at the Naval with 'the other two new Mussulmans': the vernacular may perhaps be equally accurately rendered 'two other new Mussulmans', suggesting that he had not seen them before. However in his statement next day at Davangere he distinctly says that he saw them before he left, but if that be true it is curious that he did not then know the names of his new comrades. And even in the Court of Sessions he says he does not know their names, though that statement may be merely intended as an adhesion to his statement made at Davangere.

46. Other evidence against them is that of Mra the goatherd and Rama and Hanumaboyi servants of the accused Linge Gowda. Rama (Prosecution 38th witness) says he saw them with Linge Gowda and Hanumaboyi to Hirur via Nandimanave and Mundri: on the night of the 6th of February, and Hanumaboyi's statement is to the same effect. I find it impossible to accept the evidence of these woddars servants of Linge Gowda secured after their master's arrest. I do not know whether by eliciting statements from them to persons they met near Mundri village it was intended to corroborate them by other evidence, but no other evidence is on the record on this point.

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47. Perhaps the strongest evidence that these men were among the murderers is that of the station Master of Sivane but even as to that and even if I could be sure that the identification of these by the station master was unmistakably correct(he only saw them for a few minutes by the light of a lantern when they were in a state of intoxication,) that carries us only to Sivane Railway station, and in the absence of satisfactory evidence that they joined the gang thereafter it would hardly suffice to convict them of murder. Indeed even if the approver's evidence that they came to Gondedahalli before he left for his village be accepted, he must have left not later than the 1st of February, and as I have found myself unable to accept his story that he returned, the proof against Imam and Muhamad, neglecting the evidence of Mra and the Woddars, amounts only to this that they joined the gang on the 30th of January. If so they probably remained then till the 6th of February, but it would not be safe to convict them of murder on that probability.

48. The evidence against them of the witness Kalyada Ranga is that they were at Holalkere with Hussein and Kudal about the 26th or 27th of January, and that he accompanied them to the Railway station when they took tickets for Ajjampur. This evidence if true carries us no farther than that of the station master of Sivane. These men must be acquitted.

49. According to the approver Hanuma, the 12th accused Fakira and the 11th accused Rachia were also present at the murder but his evidence has already been rejected so far it relates to the actual occurence itself. It is certainly probable that some local men were there to see that the hired assassins accomplished their task, and probable that Fakira, servant and companion of Rachia, was among them. But that is of course not enough.

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50. The witness Pujari Hanuma(prosecution 23rd witness) says he saw Fakira and Rachia, as well as Hanume Gowda (3rd accused) who has been acquitted, and another not named, near the temple in the Davemardi Kaval about midday on the day of the murder. That is not of much use because Rachia and Fakira live in Lakanahalli not far from the Kaval, and though the former was at that time keeping out of sight, to avoid a warrant which was out against him in a case in which he was surety for Malayada Ranga who had broken his bail, still it is likely that he would visit his village now and then, and he might have sought the seclusion of the Kaval rather than travel on the high road. Though Kala and Ura the goatherds seem to have identified both Rachia and Fakira in the court of the Committing Magistrate (page 294 of the printed record) neither of them does so in the Court of Sessions.

51. Rachia has been convicted of abetment of the murder. There is much evidence which I need not discuss to shew that he was a friend of Linge Gowda, and an enemy of Guru Rao. There is no doubt about that, and there is a quantity of evidence connecting him with the conspiracy, which I shall consider.

52. I have already said that I do not doubt that the approver Hanuma was among the conspirators but that his evidence cannot be accepted in detail without great caution.

He says that Rachia was one of the men who first came to call him to take part in the plot. Rachia's relations by marriage live in or near Bommenahalli: Rachia was an enemy of the deceased; some man had to go to collect the assassins, and some one who was likely to have some influence not a mere servant. Therefore it is extremely probable that Rachia did go to arrange matters. On this particular point the approver is uncorroborated except by

Nanjunda

Manjunda the 51st witness, and this witness has been I think rightly discredited by the Sessions Judge. He is a person who must have known something about the matter, but his evidence is obviously false in many respects and he is on bad terms with Rachia. Moreover the approver did not, to the Magistrate at Davengere mention Manjunda as one of those who came to call him.

53. The carman Ludan Beg alleges that Rachia engaged his cart at Hallur to carry Hussein, Ludan, Hemmabasava and Lakshmana to Tarikere, and when they reached that place, paid him something extra to take them on to Hosahalli. He does not mention the approver as having been among the passengers, and the approver did not in his statement to the Magistrate at Davangere, say anything about this journey and Ludan Beg in his statement marked Exhibit D22 says the approver was not among the passengers. And even in the Court of the Committing Magistrate this journey by cart from Hallur to Lenkipur and Hosahalli is spoken to by Hanuma only at the end of the examination, and not in its natural place in the course of his narrative. It is likely in these circumstances that he did not make that journey, but came by train by way of Kodagenur as stated to the Magistrate at Davangere in Exhibit D7. And the reason why he has been made to tell the present story may be that evidence was wanted to connect the theft at Koldhal on the 3rd of January 1917 with some of the accused. But though the approver, if he went at all probably went to Hosahalli or that neighbourhood by train on the occasion referred to it is of course possible that Rachia and others travelled by cart from Hallur via Lenkipur. But in his statement to the Magistrate at Davangere (D7) Hanuma says that Rachia, Hussein and Lakshmana were among those who came with him by train from Kodagenur; and it is possible that Ludan Beg's

story

story is an invention intended to account for the suspected participation of some of the accused in the theft at Joldhal. At any rate I am afraid it would be unsafe to act on his evidence as proof that Machia engaged his cart at Kallur.

54. That Machia was with Linge Gowda occasionally in November and December at Tarikere in the Yenahole Lutt is doubtless true, but that is not of much use as evidence of a conspiracy to murder Guru Rao. Machia and Linge Gowda were friends, and had both been concerned in the Kallenahalli riot of the 5th of November. Linge Gowda was at Tarikere for medical treatment and Machia may have gone there also to see him and take measures in connection with that case. I do not think it is necessary to reject the evidence of Prabhaya (Prosecution 41st witness), but assuming that he is right in saying that Linge Gowda expressed an opinion that no one would be safe as long as Guru Rao was alive, that does not help the case much.. He was naturally incensed against Guru Rao at that time and it would be very dangerous to construe a remark of that kind as evidence of an intention to murder his enemy. This witness says that some time after that he saw Budan and Chennabasava at the Lutt. That is possible, but there was some discrepancy in his statement as to the identity of the accused Budan, and he does not say that Machia was present at the same time as these men: I am not disposed to accept his identification of Budan and Chennabasava as trustworthy, he does not say that he saw the men more than once, and it is not likely that Linge Gowda and Machia would bring their hired assassins openly to Tarikere. I cannot regard his evidence as of any value as against Machia.

55. The

60. The Vaddar witnesses Rama, Immuttayi and Mukkanna Bhimakulli Ramana are quite unreliable. [illegible] Ramana seems to have been introduced because he is a man residing near Kere and acquainted with approver Ramana and Krishnappa, who is said by Ramana to be cognizant of the plot, and to have come to Nondakalli to assist in it, but his method of relating story of his visit to Nondakalli to see his sister's daughter just at the time when the assassins were leaving that place for Nondedahalli does not seem to be worthy of acceptance, and his evidence does not appear to have been secured before April 1917.

61. But rejecting all this there is still the evidence of Muniyappa and Kalwar Ramana as to Machia's presence in the vicinity of Bettatavarekere. The Sessions Judge accepts this evidence and I have been unable to find any good reason to discredit it. It is probable that the camp was during the night in the neighbourhood of Bettatavarekere about the time to which the witnesses speak, the latter half of January, and there is nothing unlikely to be true in the statement that Machia and Fakira brought that on one night to the temple at Bettatavarekere and kept that for a day or two in that vicinity, some perhaps in the garden of accused Ramana Gowda who was a friend of Machia, and some perhaps in a garden at Bettadahalli a little south of Bettatavarekere.

62. Among the men seen by the witness Muniyappa were the 6th accused Lakshmanna and Lakshmana and the approver Ramana as well as Fakira and Machia, and Kalwar Ramana saw Lakshmanna. There can be no doubt therefore that on this occasion Machia and Fakira were in company with and were in charge of the men who were hired to murder Guru Rao.

63. Then there is the evidence of Kalwala Mangi (prosecution witness), but I cannot accept it as a whole

[illegible] to this witness only in connection with the charges against Gopal, Kuhan, Iman and Others, the Sulakhore military station found the end of [illegible] apparently does not rely on his evidence as to the examination at Varshole [illegible] between Ringo Ram, Kuhia [illegible] which, at least he does not refer to — that part of his story now does he refer to — [illegible] Ringo Ram on each occasion. The [illegible] of this witness according to his own account was obtained by the police while in charge of the lock-up at Yari [illegible] and he was brought before the Magistrate on the 22nd of [illegible]. It was at that time under remand on a charge of [illegible] robbery, of which he was shortly afterwards [illegible]. He had been in custody since the 17th of February. In the course of the proceedings against him in which he was released on bail on the 4th of October last, during one of his appearances on the 9th of January last he seems to have broken his bail, and to have been arrested in Sulakhore on the 21st of January; he again, [illegible], was re-arrested on the 10th of February. Thus it will be seen that he was acquainted with Kuhia, and he had to make his peace with the police in regard to his escapes, and in the circumstances it may not be safe to rely on his evidence even as to the events at Sulakhore on the 10th of January the preceding year.

[illegible] There is however against Kuhia the evidence of the approver corroborated by the evidence of Kanji and Kalwar [illegible] but it seems to me to be sufficient to prove that [illegible] of the men concerned in the riot against Guru [illegible] justify his conviction for abetment of the murder.

[illegible] Mr. Narayanaswamy Aiyar contended rather than argued that Kuhia cannot legally be convicted unless it is proved that he was present at the murder. It is true that the only charge framed against him was reference to section

section 114 of the Penal Code, but the Sessions Judge has convicted him under section 109, and it seems to me that the legality of that conviction is affirmed by section 238 (1) of the Procedure Code.

61. The accused Chikkariappa has been acquitted by the Sessions Judge and the Government has appealed, but I think the appeal fails.

62. Chikkariappa is a leading man in the village of Londedahalli which is near the village of Kalyahalli, the residence of the deceased Guru Rao, and on the way between that village and the main road. Accepting the evidence that Chikkariappa had cause of offence against Guru Rao like others in the neighbourhood, I agree with the Sessions Judge that the evidence is not sufficient to convict him of complicity in the murder. There was no open enmity between the two men at the beginning of February, and though it appears from the diary of Linga Gowda, Chikkariappa was on friendly terms with him in October, and though on the 16th of November he made some accusation against Guru Rao, it does not follow that he was not on good terms with Guru Rao in January and February of the following year.

63. I doubt whether the approver's evidence as to the sojourn of the gang at Londedahalli is true. Even if Chikkariappa sympathised as he may have done, with the enemies of Guru Rao, he is hardly likely to have sheltered the gang of murderers on a place so near Guru Rao's residence. Guru Rao was a man of power and influence in his neighbourhood, and it is improbable that the conspirators would have exposed themselves to the risk that the presence of a gang of strangers might become known to him, and arouse his suspicions: we have the evidence of Linga Gowda that Guru Rao was particular about ascertaining particulars of any comers to his village which is only half a mile from Londedahalli.

64. The

64. The approver's evidence that Chikkariyappa personally took food to the garden and brought also some of the stolen movents is not to my mind probable, and is not corroborated by his earlier statements. So the evidence he says that Gondedahalli Veera Gowda took food to the garden and that the same person and some others talked about the movements of Guru Deo. My Veera Gowda might have meant the accused Chikkariappa, -- in exhibit D, his statement in the committing Magistrate's Court, he pointed him out as Chikkavira Gowda -- but Chikkariappa and Veera Gowda are very different names; in exhibit G the name is recorded as Chikkariappa but that was recorded by the investigating officer who was acquainted with the locality, and may not be the name given by the witness. This is certainly a small matter but it suggests that if the approver had really spent a fortnight in the garden at Gondedahalli, and had then frequently met Chikkariappa, as his deposition makes out, he would not have made a mistake as to his name.

65. I am very suspicious about the approver's statements about the persons alleged to have been enemies of Guru Deo. The net is spread wide to catch many of the leading men in the villages of the neighbourhood, and though Chikkariappa is not said to be one of those marked down by the Secret Commissioner, it is quite possible that the statement of the approver at Davangere may on this point have been influenced and that he may have mentioned the name told to him then.

66. No corroborative evidence against this accused is put forward.

Gurudeo and Gowda may be telling the truth as the sessions Judge thinks, but their evidence does not amount to very much. If a few of the murderers, who must

have

have been somewhere in the locality, came to a well at Kondechilli close to the village road to wash their clothes that does not prove that the owner of the well was in the conspiracy, and while Gurpalaiah apparently saw only 3 men, Gangaiah saw only one. This evidence so far as it goes might be corroborative of the approver's statement that the accused were in the garden, but when that statement is very doubtful in itself, this evidence does not go far to strengthen it.

37. [illegible] and says that the approver and the accused Lakshmana used to come to his house for [illegible] went before the murder. This proves nothing against Chikkarangappa, but in answer to the prosecution case the witness says that one of the men on one occasion brought chili and [illegible] there for them. This is possible because the witness says that Gurappa who was all powerful in the village wanted to know the names of all new comers: but it is hardly probable that the men would have got Chikkariappa to come to Kempalli to speak for them. The further statement of the witness that Chikkariappa told him that these persons belonged to the party of Gurappa and Gangaiah is wholly improbable and I do not think any part of the evidence can be accepted.

38. [illegible] which was filed by the Sessions Judge was clearly inadmissible in evidence under section 145. The Sessions Judge does not rely on it but he should not have taken it, unless to discredit the evidence which is wholly the effect of it.

39. Then there is the evidence of Nagath Sab(prosecution witness) the cart driver, to whose statement I have referred before: I do not see why he should not be believed, but his evidence does not help to prove the case against Chikkariappa. It may be perfectly true that

Chikkariappa

Chikkarigowda went on the 5th of February to Harihara, and on the way went for a time into Davangerdidavalu ostensibly or really to see the Goravaiyar, and it may be perfectly true that the 6th accused Hanumakkava obtained a lift in the cart. There is nothing in this to show that he had [illegible] before, or that his business in the land was connected with the murder.

The other evidence in that of Ranjunda but he has been digitly discredited.

72. On the whole I am not prepared to say that the [illegible] is not justified.

73. One case of Singe Gowda remains for consideration. I have already rejected the evidence that he sheltered the murderers after the murder at his coffee garden, and also the evidence that he accompanied Kuma and Kuberad to Hirur on the night of the crime. Ranjunda's evidence that he was conversing in the Venkatalla Katte is rejected by the Sessions Judge as that of a tainted (accomplice and witness) who [illegible] to be watching in the house of Sutte Konda at Chatnahalli, and on which the learned Government Advocate does not rely.

74. The approver Kumara does not either in exhibit C$_1$ or in his statement at Davangere refer to any visit to Harihara, and Ranjunda does not say that he saw him there. I find it impossible to accept his story on this point, and in dealing with the case against Kuruba Gowda, the 10th accused the Sessions Judge in the 30th paragraph of his judgment rejects it also.

75. In the Sessions Court the approver says that his first visit to the locality was to Chikkahalli the residence of Kuruba and that he returned to his village from there. In his statement in Davangere he says that from Chikkahalli he went to Honnalli where he met Singe Gowda, but it is

possible that there is some confusion about this for in the committing Magistrate's Court he says they did not go to Hoskhalli, and the explanation given in the Sessions Court in cross examination is somewhat contradictory and lame. That does not seem to be very important. What is important is the question whether the approver went to Hoskhalli and there met Linge Gowda. In the Sessions Court he says that he was taken from the Hutt at Harihore to Hoskhalli by Linge Gowda and Machia after the plot had been disclosed at the Hutt and that they stayed there for 3 days. It is possible, excluding the interpolated visit to the Hutt, that the party went straight from the Railway Station at Ajjanpur to Hoskhalli. As to this alleged visit however there appears to be no special corroboration, and it may perhaps be neglected.

76. The next journey was according to the statement in the Sessions Court made by road from Kallur in Ludan Magg's cart. This is the approver's 3rd visit to Hoskhalli according to his own account. I have discussed this matter in dealing with the evidence against Machia and am inclined to the view that the journey was made in fact by train from Kodagunur as stated in the statement made at Davangere. I see no reason to doubt that a journey was made to the vicinity about that time. The story is that at Hoskhalli Linge Gowda kept the party for a night in his house and sent them next day to his garden - where the price of the murder was fixed finally at Rs.600/-, some money was paid to Honnu-basava and Kadar Hanuma of Kallenahalli, who however denies this, and the party remained in the garden for a period not stated in the Sessions Court but said in C_1 which however is not evidence against the accused, to have been 4 or 5 days.

77. From this garden, being supplied with weapons, they went to Gondedahalli, and thereafter, except for a visit to Hoskhalli to get some money, they saw no more of

Linge Gowda

Linge Gowda until after the murder. It is with reference to this visit therefore that it has to be seen whether the approver is corroborated.

76. I should have attached more weight to his evidence which is not intrinsically improbable, had it not been for the fact that he has clearly tried, or been taught, to implicate Linge Gowda by false assertions about the hutt and the coolie garden. As it is his statements against this accused require strong corroboration. I have given reasons for doubting whether Andan Nag came to Kosahalli with any one, and his evidence is of no value against Linge Gowda. I need not refer again to Muzaulla, Covya, Moota and Pipya whose evidence I have already rejected. Kunja(prosecution with witness) is a credible witness, but he cannot know whether Mahlan went as he said he was going, to Kosahalli or not, and as he does not know who started with Fakira, his evidence does not show that that visit if it was made, was on the business of the conspiracy. The approver no doubt says that he went to Kosahalli with Fakira on this occasion, stayed there 3 days and then went to Kottatavarekere under the orders of Mahla, and thence to Gondedahalli again. The persons who went to Kosahalli on this occasion were Mallu-rappa, Fakira and the approver himself, and Mallurappa left Kosahalli in anger and did not return. It seems to me somewhat unlikely that the approver with his sore leg would have been chosen to make this unnecessary journey to Kosahalli when he might have remained quietly at Kottahalli or Kottatavarekere. Linge Gowda was not likely to give the sum of Rs.100/- to him more than to any one else, and I am not inclined to believe this part of his story. The evidence of this visit for money to repay the 3rd accused Hanume Gowda is I think too weak to be of any use against Linge Gowda.

77. As

77. As to the prior visit to Kosahalli during which the party was furnished with weapons the corroborative evidence is that of Ramanayi, and Hema (Prosecution 30th witness) and Allenahalli Ramaya.

78. Ramanayi says he supplied the gang at Kosahalli with a goat, and the approver's statement in the sessions Court is to the same effect, but in the Committing Magistrate's Court he said Ramanayi was not the man who brought the goat, and this he explains by saying that he was suffering from pain in the leg and was consequently ill. Ramanayi tries to prove too much. He says that Linge Gowda ordered him to murder Guruvaiah, at the eschori, which seems unlikely. He speaks to the supply of the goat, to the journey to Matigiri, and to Pirur on the night of the 6th of February: it is of course possible that all these incidents are within his knowledge but it seems to me doubtful. I have declined to accept his evidence as to the last two, and as to the goat I am also doubtful. In cross-examination he says he delivered the goat to the accused Hema and Thimma, but if there is any truth in the case for the prosecution these men had not at that time come to Kosahalli or the neighbourhood. The discrepancy might no doubt be due to a mistake in identification, but the witness is not the kind of person on whom much reliance can be placed, and it is more likely as not that the discrepancy is due to the fact that he delivered no goat to any one at all.

79. Hema will not admit that he knew anything the conspiracy as alleged by the approver, but speaks to the departure of the gang from Linge Gowda's garden with their weapons in a cart. I fear that his evidence cannot be accepted and have already referred to it in connection with Mechia's case. He was likely to be implicated and may very well have given evidence to avoid that difficulty. Of the other Madar servant I have already discredited

60. There is thus no satisfactory corroboration of the approver's statement regarding the sojourn of himself and his comrades in the garden at Mosahalli. They may have been there; very possibly they were, but on this evidence I cannot hold that it is proved that they were.

61. The circumstantial evidence is of no value. The finding of sickles and weapons in the house of Linge Gowda on the 26th of February when he was arrested does not prove anything. The medical evidence rather suggests that the sickles were not used in the murder, and the bloodstain on them do not help the case. There is no evidence that article 7 is of the same fabric as the piece of flowered cretone found in the house, nor is it clear to me that it is of the same pattern. The discovery of blood on the cart on the 7th of March long after Linge Gowda had been arrested and locked up is rather suggestive of the concoction of evidence than otherwise. The injured men in spite of having had their wounds bandaged might no doubt have bled during their journey to Attigirikhan, but it is easy to put a little blood on a cart and smear it with cowdung and it has always to be remembered that the conviction of Linge Gowda was it can hardly be doubted one of the objects set before the investigating authorities.

62. The only other evidence that of Sivappa(Prosecution 37th witness) may be true. Linge Gowda was at Hirur on the 7th of February, and Sivappa may have met him. If he was there in order to establish an alibi it is curious that he should have covered his face, but whatever he actually did do, his gesture did not at the time seem suspicious to the witness, and there seems to me to be nothing in this evidence.

63. I do not think Linge Gowda can safely be convicted on this evidence. Suspicion fell heavily upon him at the

outset,

outset, and lies heavily upon him now. Bu the evidence in the circumstances is not I think sufficiently trustworthy to justify his conviction.

84. As regards Fakira the evidence is much the same as that against Rachia and while I do not find evidence enough to prove his presence at the murder, there is sufficient to convict him of abetment had he been charged with that. There is the evidence of Kanja and Talwar Hanuma against him, and he was one of those who hired Mahadevanna's cart to take the murderers back to Chennagiri. However as he has not been charged with abetment and as my learned colleague finds the evidence insufficient to convict him of any offence his conviction must be set aside.

85. The Sessions Judge was not justified in questioning the Amildar as he did not in order to find flaws in the evidence given by him, but apparently to convict him of failure to produce before the Court all the evidence available. In the result he has recorded statements made by persons not called as witnesses, and though he has not relied on them, they obviously should not have been put on record. It is impossible to say whether they had any effect or not on the minds of the assessors.

86. In the result I would confirm the convictions and sentences on Rachia, Budan and Chennabasava and set aside those of the others.

SD/- LESLIE C. MILLER,

CHIEF JUDGE.

MSC.

6

Mr. Justice T. RAMALINGA AYYAR :-

The question for decision is whether the story of the approver Hanuma is probable and credible, and if so, whether the main incidents related by him receive substantial corroboration from the oral and circumstantial evidence submitted for the prosecution. In the first place I have grave doubts as to whether Agasar Hanuma took part in the murder of Hadip Guru Rao or in the conspiracy which culminated in his murder. In his evidence as 9th witness for the prosecution referring to Kachia's offer to hire him for the work of murder he deponed 'I told him that I was unable to walk owing to pain in my leg.' Again on the day previous to the murder, he was unable to walk 5½ miles along the high road from Ajjampur to Nakanahalli as he was 'suffering from pain in the leg' and stopped behind at Sokke, three miles from Ajjampur, and let Fakira go in advance. If that was his condition on the fifth of February it is difficult to believe that on the following day he felt fit, or his fellow-conspirators considered him fit, to take part in the murder of a powerful man armed with a revolver. The scene of the murder is between Tarikere the Taluk Head Quarters, and Ajjampur, the Head Quarters of a Police Jemadar, and both are Railway Stations. The murderers had to escape cross-country, the asylum arranged was Hosahalli, the foot-path from the scene of murder to Hosahalli runs through jungle and hills and over a tank bund (vide page 260, L. 20) and is longer than the road way from Ajjampur to Sokke or Sokke to the scene of murder, and a laggard like Hanuma was a danger to himself and his comrades when fleeing for safety. Hanuma explained

explained that he was suffering from an ulcer in the leg and that it was due to venereal disease. That he had this ulcer when his services were requisitioned in Kaloor is clear from his confessional statement before the Kavanagere Magistrate in the course of which he stated 'I told them that my leg was paining and that I would not go'. In the same statement (of 19th February 1917) referring to the circumstance of the murder itself Hanuma said: 'they drove the cart faster: I and Husseini Sab had pain ~~th~~ in the leg: so we went behind'. Husseini it may be noted had settled in Hanuma's village Kaloor though a brother of Budan of Hulsagar. In his statement C_1 Hanuma described Husseini as follows: 'Husseini is black and a mussolman He has a wound on the ankle of the right leg and cannot bend his right leg. If he sits he stretches his leg'. When the Amildar saw Hanuma for the first time on the 17th February he found he had an injury below his right knee and <u>was ~~his~~ lingering and weak.</u> Kollari was examined on the 17th and though Hanuma gave 'all information about the murder and admitted his complicity in it' he did not record his statement till the following day as he was weak and 'unable to give a sustained deposition'. It is clear that the Police Inspector had Kollari and Hanuma at Kodaganur against the Amildar's arrival on the morning of the 17th February. The Inspector of Harikere who had been sent to Kaloor in advance appears to have thought Hanuma's ~~ulce~~ ulcer was possibly a wound received at the time of the murder, he wired to the Amildar that an injured suspect had been found, and in his Yadi to the Sub ~~Assist~~ Assistant

Surgeon

Surgeon of Chennagiri described Hanuma's ulcer as a 'severe wound below the knee of the right leg' and asked for a certificate as 'to how and by what the wound was caused' (vide p. 199, Exhibit D_{29}). According to Mr. Mahomed Hayath (49th witness for the prosecution) he found Hanuma directly he went to Kaloor, and he was then cleaning his ulcer near a pond and when questioned about his injury told the Inspector 'that he had it from a long time'. The Inspector took Hanuma to Chennagiri for medical examination. The Sub Assistant Surgeon found the wound to be a group of four ulcers, two big and two small, portion of the leg outside the ulcers was hard and boggy in places, the probe went 2½ inches below the skin in one of the ulcers exuding foul discharge of mixed pus and blood. (Vide Exhibit P_3). All the same the Sub Assistant Surgeon certified on 21st February 1917, fifteen days after the murder that the ulcers were of 2- 3 weeks duration. There can be no doubt however that they were long standing festering syphilitic sores which seriously impaired Hanuma's powers of locomotion and it is therefore intrinsically improbable that he consented, or was selected, to take part in a dangerous attempt to murder a man like Guru Rao on the highway between Ajjampur and Narikere in a tract where he had so many adherents and was so influential with the Police.

2. Except as to what transpired at, after, and immediately before the murder, Hanuma's statement of the 18th February (Exhibit C_1) and his confession on the 19th February, contain nothing of importance that had not already been revealed by Nerabasappa and Kollari.

The

The first informant on whom the authorities appear to have placed undue reliance was Ranjunda (51st witness for the prosecution). He says the conspiracy to murder Guru Rao was 'going on for two years' and that he, Rachia and Rakira went several times to Kaloor and Bommenahalli to select assassins. He takes special credit for inducing Ranuma to join the conspiracy and it would appear he and Rachia first brought K.Basappa, Ranuma, Kunta (lame) Husseini and Kerabasanna to the Yennehole Kutt and introduced them to Linge Gowda. Ranuma says in his evidence, that Ranjunda had come with Rachia when he was first engaged and that Ranjundappa always made one of the party who came to Kodaganur to take him to Rakanahalli or Tarikere in furtherance of the conspiracy. Ranuma did not mention Ranjunda either in Exhibit C1 or his confessional statement and as Ranjunda was not formally examined by the Amildar so till the 19th March (P.120, L.37) it is difficult to say to what extent he influenced the materials gathered during the preliminary stage of the investigation before the arrest of Linge Gowda on 25th February 1917. It is however clear from the Amildar's evidence that it was Ranjunda who went to Kaloor with a constable and fetched Kerabasappa to Lingadahalli on 10th February 1917. ~~It is however~~ The Amildar examined Kerabasappa on the 10th, and says he gave fuller information on the 11th. On the 12th Inspector Rayath was given a list of accused persons and sent to Kodaganur in search of them, while Daffedar Gurumurthi was sent on a similar quest towards Hallur and arrested Chennabasappa and Lakshmana on 18th February 1917. The special diary of 10th February 1917

February/16 embodies Berabasappa's examination at Lingadahalli and contains the first definite clue to the murder furnished by the man who was brought by the informer Manjunda from Hanuma's village of Kalloor. It contains the names of Hanuma and Kollari. Mahomed Kayath says he was given also the names of the 4th, 5th and 6th accused when he was sent to Kodaganur on the 12th February. Kollari was examined on the 17th February but though Berabasappa gave the earliest definite information in the case, his full statement was recorded only on the 20th February. In the interval, on the 18th and 19th respectively, Hanuma gave statement Exhibit C_1 to the Amildar and a confessional statement before the Davanagere Sub Division Magistrate. I place side by side the material portions of Hanuma's statements of the 18th and 19th February. (Vide Appendix 1).

3. Exhibit C_1 and the Confession were given on two successive days within a fortnight of the murder when Hanuma's recollection of facts might be expected to be fresher than when he was examined before the Committing Magistrate. He had been taken up by the Inspector on the 16th, was examined orally on the 17th on which day Kollari's statement was recorded, and given time till the 18th to enable him to give a 'sustained deposition.' On the 19th February he was taken by Railway to the Davanagere Magistrate from Kodaganur where he was examined by the Amildar on the 18th. He was taken to the Magistrate at 1 p.m. was given two hours to collect his thoughts and told to make his statement if any. In these circumstances a comparison of his confession with his statement Exhibit C_1 convinces

me

A P P E N D I X . I.

Exhibit C_1 of 16th February 1917.

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1. About a year ago I was ploughing in my village. Rachia and E.Basappa came to my village. They talked under a Banian tree with Kerabasappa for a long time. They asked me to go to Kakanahalli where there would be a quarrel. I said I would not. They were coming and going once in a month or two.

2. Three months ago they came back, Basappa, Hollari, Hanumantha, all these came together. They took me and Huseini to the Chowdi temple in my village. Rachia and Basappa said, 'come, we shall go with Rachia to Kakanahalli, we will have to beat Bagavalli Shanbhog.' I said I would not. Basappa Rachia and Kerabasappa said I need not fear. Basappa, Kerabasappa, Huseini, Rachia

Confession of 19th February 1917 at 3 P.M. after having been kept in charge of the Court Daffedar for two hours.

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(0) Note.- There is nothing in the confession corresponding to para 1 of Exhibit C_1, but both Exhibit C_1 and this confession agree as to two meetings one under a banian tree and another in the Chowdi temple near Kaloor. Para 1, Exhibit C_1, may possibly correspond to the extraordinary story told by Kerabasappa in page 229, lines 12 to 30 of his evidence before the Committing Magistrate.

Three months ago Rachia came to Kaloor, Hollari, Kerabasappa, E.Basappa, Hanumantha were under a banian tree talking together. I was grazing bullocks and went there. I asked what they were talking about. They said, 'if you say you go with us we will tell you.' I said 'tell me'. They said there will be a quarrel with Ayyanavaru at Kakanahalli, let us go with Rachia. 'I said my leg was

and myself left the place by train. Mudan, Chenbasaiya and Levangada Lakshmia joined us at Lolalkere. We all got down at Ajjampur and went straight to Hosahalli two or three days after Hanumantha came. We all stopped in the garden at Hosahalli. Four or five days after our assembling Machia and Linge Cowda told me I should beat Madiga Guru Rao with Husein Sabi and Chen-basava. We demanded Rupees 1000/-. They offered Rupees 600/- and we agreed. There was an exchange of betel-leaves and mutual promises. We spoke of obstacles and they said that Sd from top to bottom, from Deputy Commissioner to Jemadar all were on their side and that the Police Assistant, Amildar, Inspector and Jamadar had sworn by their sacred thread and beard that this act should be done failing which they would not see their faces. We then consented and remained in the garden for 4 or 5 days. Then Linge Cowda and Machia said the act could not be done if we remained there and we should go somewhereelse. We left in the night taking a paining. I would not go. Machia said 'I will give conveyance charge, let us go.' From Kaloor we went to Bommanahalli, thence to Kodaganur, took passenger train and went to Ajjampur. From there we went to Makanahalli and thence to Hosahalli. We went to Linge Cowda's house. Linge Cowda and Machia said 'there is a quarrel between us and Doggavalli Madigar. His name is Guru Rao. He should be beaten.' Then we said 'it wont do' and returned to our village. A month thereafter Machia came to Kaloor. L. Basappa and Machia came to the house of Kaloor Kerabasappa. There is a Chowdi temple outside. There Husein Sabi, Chennabasappa, Mudan, Lakshmana and Kollari were talking together. I was going to answer calls of nature. Seeing Machappa I saluted him. He said 'you should come to-day at least, we shall go together.' Basappa. Kollari, Kerabasappa, Mudan, Husein, Lakshmana and myself went to Kodaganur and thence to Ajjampur by goods train. From there we went to Hosahalli to Cowda's garden. Machia sent for Linge Cowda. Linge Cowda and Makira brought food for all. There was a talk about the contract.

Chennabasappa

a double-barrelled gun, a kandali, a battle-axe, two sickles and clubs from the house of Linge Gowda.

3. We left Hosahalli and went to village called Gondedhalli. We went there early in the morning. Chikkariappa of that village was there. They drove the cart to his garden. We stopped in that garden for 8 days. Fakirappa was bringing meals from the house of Chikkariappa. Nedigar Siddia of Nagvalli was giving us news about the starting and return from Nagvalli of the Nadig. He was sending toddy to Husein and Dudan. Nandappa who lives in Ajjampur gave news of Nadig's movements from and to Ajjampur. We waited four or

Chennabasappa, Eerabasappa, Dudan and Huseini demanded Rs 1000/-. Linge Gowda and Nachia offered Rs 600/- . Eerabasappa, Chennabsappa, Huseini and Dudan all these agreed. The said we must again go to another place in the night. Linge Gowda again came to the garden with Fakira making the latter carry two sickles, one kandali and four clubs. They brought a double-barrelled gun and said 'we have to go during night, which of you will carry which article.' Kollari said 'I am a Shikari, let me have the gun. I shall fire.' A car was got ready.

4. They went to Gondedhalli garden in the cart. On the way Erabasappa and Doddar Hanumantha decamped. We went to the garden. Gondedhalli Veere Gowda met us near the village and took us to the garden. The cart was sent back. It was driven by a Doddar. I do not know him. Day dawned. Gondedhalli Eye Gowda, Veerasettappa and Nagvalli Nediga whose name I do not know all these talked about the Nadigar's movements. Nagvalli Nediga sent toddy to those that wanted to drink. Nachia and Fakira used to bring food. All these were kept 8 days being supplied with food. They said that nothing could be done there and that

Nadigar

five days. The act was not done. It was in a cart we left Losahalli for Condedhalli. There is another village in the way. There Nerabasa-pa and ..Hanuma sculked away and never turned up again. L.Basappa was one day caught by the Madig at Condedhalli. The Madig dragged him before the Ajjampur Jemadar. The Jemadar asked him who he was, what he had come for, kicked him and took him to task. Consequently we left Condedhalli for Bettadatavarekere.

Madigar could not be caught. Then I returned to my village. I stopped there four or five days. Fakira and Bidda came and said myself and Machia's brother Biddia were wanted I went with two others. We first went to Condedhalli garden. As we were told they were not there we went to the garden in Bettadatavarekere.

4. We slept in the temple while Machia and Chennabasava slept in the house of the Bettadatavarekere Cowda. By dawn we went to the Bettadatavarekere Patel's garden and stayed there for three days. Husein, Budan and Chenbasava said these people could not do the work and asked Machia to give Rs 100 for bringing other men. I said I would bring and that Rs 100 might be given to me. There was a slight quarrel about this. The Cowda taking transit charges went to call Budan, Huseni and Chenbasava. Kollari having quarrelled with us went away.

5. Husein, Lakshmana, Budan, Chennabasappa and Machia were there. Kollari was also present. Husein, Budan and Chenbasappa said the work could not be done by us and told Machia they would bring four more men if paid a hundred rupees. Machia said 'I will pay, bring them.' That day we slept in the Bettadatavarekere temple. Husein and Chennabasappa went away receiving money for their expenses. Three days after they brought two men. They were new men. I do not know their names.

CC

that Hanuma either gave out a story he had been taught and could not retain for 24 hours or he intended to discredit his statement Exhibit C_1 in his confession before the Davangere Magistrate. As I have already stated, Kollari and Hanuma were incriminated by Nerabasappa on the 10th and Kollari was examined on the 17th February. Kollari and Nerabasapa were examined before the Committing Magistrate as the 8th and 7th prosecution witnesses (pages 231 and 229 of the printed record.) Nerabasanna's information of the 10th was the foundation of the prosecution. Kollari's detailed statement of the 17th was the first record by the Amildar confirming Nerabasanna's information. That being so, the learned Government Advocate did not exercise his discretion properly when he dispensed with their examination for the prosecution. Of themselves they were very important witnesses and doubly so with reference to the credibility of the approver whose first statement and confession were secured as a result of Nerabasanna's information and in conjunction with Kollari's statement in confirmation. Excepting with reference to the murder itself there is not a single name whether of place or individual in Exhibit C_1 or the confession which is not to be found in Kollari's statement of the 17th February. In Exhibit C_1 Hanuma gave the name of the second accused correctly. In the confession of the following day it becomes Nere Gowda or Veere Gowda. In Exhibit C_1 Hanuma said that Nedigar Siddappa and Ajjampur Nandappa gave information as to Nadig's movements to and from Bhagvalli and Ajjampur. In the confession this becomes 'Condenahalli Ere Gowda, Veerasettappa and Baggalli Nediga whose name I do not know - all these talked about Nadiga's movements.' It is significant that Kollari

mentions

Chikkariappa, Hedigar Siddiah and Ajjampur Kandappa in his statement of the 17th February. Again in Exhibit C_1 Hanuma says that when Budan, Husseini and Chennabasava asked Rachia to give them Rs100/- to bring fresh men, he (Hanuma) said he might be given Rs100/- and he would bring the men, and that there was a slight quarrel with regard to this. This incident he omitted in his confession, but it is a significant circumstance that Kollari's prior statement contains it and what is more he says that Husein, Channabasanna and Budan promised to bring two men. Kollari took no further part in the conspiracy and Hanuma who says he remained to the end was not able to say who the two men were. Husein (4th accused) was a resident of Kalloor since 7 or 8 years (page 64, line 50). Hanuma knew him during those years (page 64, lines 43-44). Husein and Hanuma were together taken to the Chowdi temple by Basappa. Kollari and Hanumantha(Exhibit C_1). Husein told him, Rachia and Herabasappa he would bring Budan and Chennabasava from Bulsagar (P.56, L.62) and it was to Husein according to Hanuma that Rachia paid Rs100/- to fetch two more men. (P.59,L.23-24). Husein was like Hanuma weak in the leg. Hanuma says 'for the last three years he has pain in the leg. He cannot bend his right knee. He is called kunta Huseinee.' Both of them (Huseini and himself) lagged behind in the final rush at the Hadig's cart. It is difficult to believe that weak-kneed Hanuma was associated with the weak-kneed Huseini in the work of murder with two relations Huseini had brought for Rs100/- without Hanuma knowing who the two men were. The seventh and eighth accused are brothers, the eighth accused being a brother-in-law of Huseini and Budan

and

[illegible] Exhibit C_1 which is not [illegible] in the confession or Pollari's statement of the 17th, but that is that when Mr. Pieraccini was in wait [illegible] Tondelli threw dog crush mole of [illegible], [illegible] before the [illegible] and [illegible] named [illegible]. This incident finds support in the [illegible] of the second instalment of Pollari's statement of the 16th, but is not to be found either in the confession or in the evidence before the Examining Magistrate. [illegible] it contained in his evidence before the Assizes Court. Furthermore, it is not corroborated by the evidence of any other witness and is [illegible] for the prosecution. Counsel says he has [illegible] and Pollari from his [illegible] (p. 64, l. 24) and there is nothing in his statement Exhibit C_1 or in his confession, nor in the evidence of Pollari's statement. The strong probabilities are he was tutored by Pollari. Exhibit C_1 and Pollari's statement of the 17th bear striking family likeness, both of them making no reference to a conspiracy in ennemoto wit in which [illegible] could [illegible] Moriah took part nor both say that the cart in which they travelled from Mosabdli to Tondedhdli was driven by a man whose name they did not know. A comparison of Exhibit C_1 with the confession of the 20th and Pollari's statement of the 17th convinced me that Pollari tutored Vassos and that Vassos had no personal knowledge of the incidents related by him.

5. There is however one vital incident the murder itself in which Vassos and Pollari took no part according

...ording to the prosecution. ...rchasappa left the conspiracy near ...nwardi on the way from Kozhikkli to ...ondotahalli while ...ollari left later ...nucini, ...ramabrahmam ...d ...ha left ...ttanvarakere to ...ring ...n. ...s to the ...ings, ...t ...ere brought, ...hibit C_1 ...d the confession of ...amma contain the earliest recorded account ...ich ...y in the circumstances be presumed to be his own. It is of great importance to examine whether ...l, earliest recorded accounts of the matter itself within ...fortnight of its occurrence ...ch immediately precedes it are consistent and credible ...n themselves and correspond to him later statements before the committing magistrate and the sessions Judge. ...at can best be judged by placing side by side the ...aterial portions of all four statements from the time ...ollari left the conspiracy. (Vide ...pendix II).

... ...s to what transpired after the party left Gondawalli ...ll Chitradurgakere still remain left to ...lour, ...ve a superficial comparison of the four statements ...fices to show they are hopelessly irreconcilable. ...e story given in exhibit C_1 and the confession agrees ...bstantially with the corresponding portion of ...ollari's ...rior statement while the later evidence is entirely ...ifferent and gives many details which cannot be fitted into the former. ...s to what transpired in connection with ...e final journey of ...amma from ...lourcode ...vanurdi-...val ...similar comparison shows that the three versions ...e equally irreconcilable. ...ghat portion of the ...rosecutor's story, if real, might be expected to be accurately embodied in exhibit C_1 and the confession, as it covered his final and successful effort to co-operate with the fellow conspirators to secure their ends, an effort in which Seshappa and ...ollari took a not

Cutler

APPENDIX II.

Exhibit C_1. 18-2-1917.	Confession. 19-2-1917.	Exhibit A_{15}. Evidence before the Committing Magistrate. 21-3-1917.	Evidence before the Sessions Judge. 10-5-1917.
Woddar Kollari having quarrelled with ~~us~~ went away. We all went to Kosahalli and stopped in the garden of Linge Gowda. I stopped for 4 or 5 days and then went away to my village. 25 days or a month later, Kachia's brother Siddia again came to take me and Basappa. I went to Kommanahalli to Basappa. He was down with measles. Siddappa	Kuscini and Chennabasava left Kettadatavarekere receiving money for their expenses. Three days after, they brought two men. They were new men. I do not know their names. Again we went to Kosahalli. I got food prepared and returned to my village. Again Siddappa came to Kommanahalli and sent for me. He said, "You are wanted. They are in Shamboghalli	be put up in a temple in in Kettadatavarekere. Kachia and Fakira went to Hanume Gowda's house. We were advised to go to his garden and stopped two days in the garden. Fakira and I went to Kosahalli to bring money for expenses as directed by Kachia. 1st accused gave some money to Fakira and we ~~went~~ returned to Kettadatavarekere garden. Fakira gave the money to Kachia. 4th accused said persons	Kachia took us to Kettadatavarekere We walked. We slept in the temple. Kachia and Fakira went to 3rd accused's house. Early morning a short man took us to 3rd accused's garden We were there 3 days. 3rd and 11th accused said that Yadig was not to be found at Gondeghalli and so we had to come there. A day after we went to the garden 4th, 5th and 6th accused told Kachia he would bring fresh men if Rs 100 were paid to him. He took Rs 100 from Kachia and went to Kulsagar. The 3rd accused gave Rupees 100/- to Kachia at his

asked me to come at least and went in advance. I started on Monday by Passenger train and got down at Ajjampur. He had told me to come to the Kaval beyond Nakonahalli. I walked. I came near Sokke. It was dark. I slept that night in the temple. Early ~~in the~~ morning I went to the Kaval. Kachia, Fakira Husein, Budan the two new Mussalmans and Lakshmia were there. Chennabasaia had gone to shadow Madig's cart. It was sunset. It be-

Government Kaval. Go there". I started on Monday, broke journey at Sokke, stayed in the temple, found out the road and went to Shamboghalli Kavel. Kachia, Fakira, Budan, Husein and the two new men from Hulsagar were there. I asked for Chenbasappa. They said he had gone to Tarikere and that Madig's cart had also gone. It was evening and already dusky.

2. Chennabasappa came in advance with the cart behind him. Some took clubs, some sickles. Chenbasappa took kandali and Fakira

available were useless and fresh men should be brought. Then accused 4, 5,6,9 and myself went to Condedhalli garden. Thence I went to my village. In 2 or 3 days Fakirappa came there. He took me to Condedhalli saying I was wanted by 1st accused. When we arrived none were in the garden. I asked second accused about them. He said they were in the Kavalu. I went by the road and met the whole party in Cavemardi kaval. The 6th accused

garden. Kachia gave the amount to Husein. Accused 4,5 and 6 started to Livapur Railway Station. 9th and 11th accused stayed in Bettadatavarekere and the remaining persons came to 1.Gowda's house in Kosahalli. We spent 3 days there and then 7 and 12th accused went to Bettadatavarekere as Kachia had told us to go there. Kollurappa failed to bring Kadale for me from Tarikere. I abused him he left Kosahalli and went to his village. Basappa left Bettadatavarekere. I did not see him afterwards. When I and Fakira reached Bettadatavarekere Kachia was not there. 3rd accused said he had gone to Condedahalli. We went to

Condedhalli

came a little dark owing to clouds. Chennabasava came and said the cart was a mile away. He stopped near the mile-stone. The cart came. The Hadig said, who are you?'. He did not speak. Our people followed pelting stones. The Hadig fired two or three times from the revolver. The cart ran to a great distance. There was uphill there. They obstructed the cart and capsized it to the right side of a mound. There were two others in the cart. They took to their heals. They dragged the Hadig out. The Hadig had a chopper in his hand. He raised it. There is a bush there and I went the run. The cart arrived. He sent this side and that and obstructed. There were three persons in the cart. One drove and two were seated in it. One was the Hadig. It is not known who the other was. The Hadig questioned 'who are you?'. He did not speak. They went across the cart. I and Husein had pain in the leg. So we went behind. As soon as they went against, the Hadig fired the revolver. Nobody was hit. They pursued and capsized the cart on the road.

3. They began to beat him. By that time I and Husein went. The Hadig caught hold had gone to Harikere. That evening 6th accused returned.

3. He said Hadig's cart was behind and asked us to stand across the road. The cart arrived. He stopped it. The cartman drove it faster. A revolver was fired four times from the cart. The cart was stopped by the 6th, 5th and 7th accused and Fakirappa. 9th accused also took part. The cart was capsized. Those that were in the cart cried out. On account of pain in the leg I was lagging behind. The cart was capsized. Condedahalli and found Exhibs and accused 4,5,6,7,8,9 in 2n accused's garden. I do not know names of accused 7 and 8 Second accused was also there He remained for a day. I then went to my village and remained there 4 days. Fakira came and took me. He went to 2nd accused's house and thence I went and stopped for the night in Sokke owing to pain in the leg. Fakira went in advance. I joined the party next morning on Tuesday, Antaragatta Jatra day.

2. Chennabasava came in the evening about sunset (similar to Exhibit D15). I was lagging behind owing to pain in the leg.

him-behind it. The men surrounded the Madig and felled him down, murdered him. Hemmabasappa cut him with a sickle. Husein took a petta on the head of the Madig. Fakira went in front showing the road. Sudan was seriously injured on his right hand. We threw our clubs into a tank. We reached Kosahalli. The village had slept. We roused Linge Gowda. Husein had a wound on his hand. Channabasappa had one on the head. Linge Gowda applied medicine to both the wounds.

of the kandali and hit on the head of Sudan Sabi. The Madig came out from behind the cart with kandali. The person that was in the cart ran away. Sudan, Chenbasava, Fakira and the two new men made the cart fall. The police-man ran away. Madig came out and said 'what did I do to you, let go.' As he was saying so, Sudan, Chenbasava and Fakira caught Madig by the waist and made him fall. Then Chenbasava took kandali and hit on the head. He hit four times. life became exitnct.

There that were in the cart cried out. I too went near the cart by this time. 5th,6th,7th and 8th accused caught the Madig and threw him down. The others in the cart escaped. The Madig was alone caught. 4th accused caught hold of his head, 6th accused cut him with a kandali. We all gave the Madig a blow. I too hit him with a club. Accused 7 and 8 also gave blows with clubs. We then returned to Kosahalli and informed Linge Gowda. First accused said he

3. When the cart was being capsized by accused 4 to 12 except 10, article No. 1 was dropped into the cart. The deceased Madig took it up and dealt blows to accused 4 to 6. Sudan was hurt on the right thumb, Husein on the right side of his head and Chenbasava was also hit on the head. The deceased told us not to beat him and to leave him alone. Sudan held his loins and threw him down. Husein caught hold of the back portion of the head When Madig fell down he dropped Article No.1. Chenbasava took it and dealt one blow with it to the deceased. This fell on the back of the head. Sudan

We were in a fright and stood. Then we passed through the side of the hill and went to Kosahalli. Chenbasava, Budan, Fakira and the two new men abused me saying 'you rogue, whoreson, you went aside and stood saying you had pain in the legs.' Three persons, Chenbasava, Hussain Sabi, Budan Sabi had injuries. There were holes in the heads of two persons. The hand of one person is cut.

would go to Hirur and we should go to his coffee estate. The 5th accused had been hurt on his right hand, 6th accused had a cut on the right side of the head, fourth accused had a cut on the right side of the head.

Budan dealt another on the back part of the head with article No. 2. 7th accused gave a blow with article No. 3 on the back part of the head. Fakira gave a blow to the deceased with article No. 4. Machia told us to give blows to the deceased. Takslappa, 8th accused, Mahamad Sabi and myself gave blows with the clubs. Machia took us to Kasahalli. We took articles Nos. 1, 2, 3 and 4 and the gun and gave them to first accused who kept them in his house. The gun could not be used for want of a percussion cap.

take part. e left ...loor only the day before the murder ...e gave exhibit C_1 twelve days after the murder. ...ith reference to this last fateful journey he stated in Exhibit C_1 and the confession that Muchia's younger brother Liddia came to take him, Ittappa was not available as he had measles, Liddia left Kodagunur in advance, and that, lone on onday he left by train for Hiremur stayed for the night at ...orke and found his way next morning an instructed by Liddia to that he calls the Kaval in Exhibit C_1 and Thambochalli Kaval in the confession. In his evidence before the Committing Magistrate and the Sessions Judge it was Mukira that came to take him, he and Mukira travelled together by train, alighted at Ajjanur, went to ...ondhalli, and thence to ...orke where he stopped for the night while Mukira went in advance to what he correctly calls Adavanurdikaval. This variation alone is sufficient to utterly discredit the story of his final journey on murder bent, and to powerfully strengthen the improbability of a diseased weak-kneed ...an like Munuma taking part in the dangerous work of murdering a man like Guru ...o. ...s to what transpired in connexion with the attack on the cart, time, place and the number of occupants, that was known immediately after the murder, from the information given by cart-driver Hussaini and constable Venkata ...o. Hussaini the youthful and reliable Chowdaun driver stated at the very beginning that his cart containing the Reddig and Venkata was left Harikere at 5 or 5-30 .... He further stated as follows :- 'The ~~sun~~ sun set as we reached ...attadaverekere. It was cloudy. We proceeded a mile and a half further. We saw people moving in the jungle a furlong in front of the cart. A furlong ~~further~~ we came to a rising ground. Three persons came to the right, three to the left and two behind and pelted stones. One

of

[illegible] the [illegible] road. [illegible] the [illegible]. [illegible] [illegible] [illegible] [illegible]. [illegible] [illegible] [illegible]

to convince the magistrate that he took no active part in the killing; he stated that on going to Nsimbalii he was denounced and abused as a coward. Conceding that at that stage of the investigation it was not unnatural for anyone to minimise his share in the offence, the minimum to be looked for in a reliable answer is a credible and consistent account of the killing purporting to have been witnessed by him. The very first statement as regard to the time of occurrence should contain the main details of the actual murder, apart from his own share in it. A glance at his four statements constructed above suffices to show that his first statements are vague and indefinite, and inconsistent with certain undoubted statement and his own later statements before the committing magistrate and the Sessions Judge. In exhibit D_1 and his confession he puts credit of the killing to have given to Nsimbatsopa and in exhibit D_{15} his examination-in-chief by saying that Nsimbatsopa boasted to Ligo Ondu that he alone did everything and none of us came near. In exhibit D_{15} he made Nsaini hold the middle hand and Nsimbatsopa cut it with a panga. He was content with adding 'we all gave the middle blow'. Before the Sessions Judge he distributes strikes i.e. 4 between Nsimbatsopa, Ludon, seventh accused and Nsaini, and credits each with a blow on the back of the middle's head. Thus the four blows struck by Nsimbatsopa with one Nsanli according to his confession of the 19th February are distributed between four accused and the four sharp instruments produced before the court. According to exhibit D_{15}, seventh accused struck with a club while in the Sessions Court and struck with Sickle article 3. I have no doubt in these circumstances that Nsaini's statement before the committing magistrate and the Sessions Judge were the

outcome of careful cyclostyled tutoring. His evidence as to the details of the actual murder is in my opinion to be rejected in toto, and I find it impossible to hold in the circumstances that he was present anywhere near the scene of the murder. As to what transpired on and after the night of the murder the following is a comparative statement:-

Exhibit 61 (24th February '17)	Confession (19th February '17)	Exhibit 71h (21st March 1917)
...in the morning applied medicines to both the wounds. Singe Gowda gave new clothes to Kuchai, Chennabasava and Kudan. We gave Singe Gowda Rs. 1-8-0 each and they went home. We all took our clothes and burnt all the blood-stained clothes under a tree in a certain field. We went to the stream and had a bath there. Then we went to Kankipur in a cart. We all came to our respective villages. Kudan and myself came here from Kankipur. The remaining five went to their respective villages.	...Singe Gowda gave new clothes to Kuchai, Chennabasava and Kudan. They burnt all the blood-stained clothes. We stayed there in a garden for 3 - 4 days. We were there for five days. We left on Sunday night. On Monday Chennabasava, Kudan, Kuchai, the two men from Lakkanahalli and myself took a cart and reaching Kankipur went to Chengiri. From Chengiri Kuchai, Chennabasava and the two new persons went to Kulmagar.	...Singe Gowda thanked us for the deed. The first accused said he would go to Tirur to his coffee estate. We waited for and first accused gave us fresh clothes. Only the 4th, 5th and 6th accused got new clothes. The blood-stained clothes were taken to coffee estate. The 7th and 8th accused were taken to Tirur by the 1st accused in the Tirupi road. Accused 9, 2, 3, 10, 11 and myself went to the coffee estate. Kuchai gave our cart. ..., Siddanna and Kuchai gave it. We 4th and 6th accused burnt all the blood-stained clothes in that estate. From this garden we went to Kankipur after stopping for a day in a garden near Kanahalli.	...the clothes of accused 4, 5 and 6 were blood-stained. Singe Gowda gave each of them a coat and a panch. Singe Gowda asked us to go to his coffee garden and he went to Tirur saying he would get defence witnesses to go to his being at Tirur that night. He wanted two [illegible] went to be sent with him. [illegible] Singe Gowda to send [illegible] accused by train to Nilambur. [illegible] stopped in Singe

Linge Gowda's house saying that he was going to Antragatta's jatra. We left the same night for the coffee estate taking with us the bundle of blood-stained clothes. After 4 days we went to Hosahalli. Linge Gowda was present and sent us to a garden. We remained there for a day. Accused 4,5,6,12 and myself walked to Benkipur. From there we went to Hankatti and thence to Chengiri. We parted company. Accused 4,5,6 and 12 went to Dulsagar. I alone went to my village.

6. According to Exhibit C and the confession Thenna-nayaka was the only hand that killed the Medini. He hit four times with a Kandali. He bragged before first accused that he alone did everything while none else ventured near and was rewarded according to Exhibit C, in lieu of his blood-stained clothes with a panche. A Kollant-coat and a lace turban while Hussaini and Rupan got only a Panche each. But having changed his mind and having assigned the four fatal blows to four weapons and four persons he consistently equalised the reward in the shape of khal clothing to a coat and a panche to each of the accused 4, 5 and 6. In Exhibit C, and the confession he and his fellow assassins went to Benkipur from Hosahalli in a cart. Before the Sessions Judge they went walking. According to the confession Lakshmana left for Benkipur and Chennagiri with Ramana and the rest of them. According to Exhibit D_{15} Lakshmana went to the coffee estate with the other assassins according to the evidence before the Sessions Judge Lakshmana did not go to the coffee estate but remained at Hosahalli saying he would go to the Antargatta Jatra. Ramana was taken up by the Inspector 4 days after he reached Kaloor, was examined by the Amildar orally on the 17th and formally on the 18th. In Exhibit C_1 he says 'we all came to our respective villages, Hussaini and myself came here from Benkipur.' Before the Sessions Judge he says

'Accused

accused 9, 10, 6 and 12 went to Kulsekar. I alone went to my village. This variation alone is sufficient to discredit Ramana connected as the incident is with his safe return home with his friend and fellow murderer Kunchini who was well-known like himself. In the confession he says himself, Channabasava, Hussain and the two new men left Konahalli by cart for Kankipur. He also says in the same confession that from Hemmagiri Madira, Channabasava and the two new persons went to Kulsekar. This is utterly transformed before the Committing Magistrate and the Sessions Judge. On the very night of the murder about mid-night Linga Gowda and the two new men left on foot for Kirur through two ranges of hills, the two new men were to be sent by train from Kirur to Kulsekar while the others were sent to Linga Gowda's coffee estate 14 miles south at Attigere. The blood-stained clothes which according to Exhibit C were burnt in Konahalli, under a tamarind tree in a green Ambab field were carefully bundled, taken to the coffee estate, and burnt there according to his evidence. A village called Attigere adjoins Ramu's village of Kulsekar, the story of the trip to Attigere coffee estate cannot be true if the story in Exhibit C is true and he cannot have forgotten his four days' stay in a palatial estate under the Kalluhatti Giri so different from his ordinary surroundings if he was really there after the murder and left the estate on his way back to his village. In this connexion there is a curious difference between what Ramana says in Exhibit and what he says in his confession of the following day. According to Exhibit C, he gives only one day after the murder to the Konahalli Ambab which in an account and

letter

betle-leaf garden (vide page 190, line 8) and then left with his companions for Lenkipur. In the confession he says ' we stayed there in a garden for 3 - 4 days: we were there for 3 days: we left on Monday night - on Monday Chennabasava etc'. The confession is generally less definite than Exhibit Q, but here the confession is full of details, giving even the days of the week. It seems to me this startling addition might have been the result of information received from Jaffedar Gurumurthiah who arrested Chennabasava and Lakshmana at Tilinurhatti a mile south-west of Hallur on 10th February 1917 and probably took them up a day or two earlier and that a five days' halt was required to fit in with their arrival at Hallur or Chennagiri from Lenkipur. A stay of five days in Hosahalli was however unthinkable. The Amildar came down Dornhal (where first accused has a garden) and Hosahalli to Lingadahalli on the 9th, received information from Veerabasappa on the 10th and was searching all over the Hobli and with special reference to the gardens of Linge Gowda, at Hosahalli, Dornhal, and other villages from the 9th to the 12th. To house the murderers in the Hosahalli garden on the 9th, 10th and 11th was in the circumstances out of the question, and the idea of sending them to Attigiri estate appears to have been conceived to get over this difficulty. The Amildar's eyes were not only over the Lingadahalli and Tarikere Heblis but also on the Attigiri estate of Linge Gowda. The Amildar sent a man on 10th February 1917 to see his coffee estate to find out whether injured persons were there. The estate writer Azizulla Khan was produced before him on the 10th and he told the Amildar at 2 P.M. that day that no strangers had come to the estate. It would appear according to the prosecution

that

that Azizulla went 14 miles up to the estate the same day, and sent the assassins the same night at 7 or 8 P.M. in a cart of Waddar Thippa to Hosahalli (vide Exhibit P13) According to Hanuma Nachia said that the Inspector, Jamedar and Amildar had come to Lingadahalli in search of the murderers and Nachia therefore took them from the estate in the cart of a waddar. The murderers therefore virtually stumbled past the Amildar at Lingadahalli and put up at Hosahalli on Sunday the 11th February. It is difficult to believe this story unless we suppose Linge Gowda and the accused in the coffee estate believed in the story of the Amildar's oath by his sacred thread contained in Exhibit C4. The manpent by the Amildar to the estate to find out if any injured persons were there was presumably a Police officer and he presumably reported there were none. I have no doubt whatever the journey to the coffee estate is a myth.

7. Nor is Hanuma's evidence as satisfactory as regards the injuries received by Hussaini, Budan and Chennabasava. In Exhibit C, he says Budan and Husein were injured in the hand and Chennabasava on the head. In his confession he was apparently unable to say which of the three was injured on which part of the body just as he forgot Edigar Biddia's name. He vaguely said 'Holes have been caused in the heads of two persons: the hand of one person is cut' If Hanuma was present at the murder, saw Linge Gowda apply medicines to his comrades' wounds, stayed with Accused 4, 5 and 6 for several days after the murder, travelled with them to Chennagiri and went to Kaloor with Hussein, it is difficult to understand why he mentioned an injury to Hussaini's hand in Exhibit C4 and why he was content to refer indefinitely to two holes in the head and one cut in the hand in his confession. Exhibit 4 shows Hussaini had an incised wound on the left side of

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the head. Exhibit P_2 shows Chennabasave had a triangular wound on the right side of the head. Hussein's according to Exhibit P_4 was probably caused by a sharp instrument while according to Exhibit P_3 Chennabasava's could have been caused by a sharp or blunt instrument. Rudan according to Exhibit P_5 had an incised wound on the right thumb base cutting the nail into two caused probably by a sharp instrument. According to Exhibit P_6 Fakira had a curved linear cicatrix on the right hand between the ring and little fingers caused by an injury, but as he was examined on 4th May 1917 long after Rudan and the murder the Sub-Assistant Surgeon could not say how the injury was caused. Hanuma does not say that Fakirappa received any injury. According to Exhibit D_{15} both the 4th and 6th accused had cuts on the right side of the head. In this connexion the first statement of the constable Venkat Rao who was seated inside the cart with the Lading is of prime importance. He stated as follows:- 'Three men were behind. All these three had weapons called pandavala kattigalu. One of them attempted to get into the cart. Lading Guru Rao fired with his revolver against the chest of one and he dropped down to the ground. When he dropped down they went aside leaving the 'Pandavala' in the cart. The cart went fast. They followed the cart again and seized it. Taking the pandavala I have cut the forearms of three persons. The oxen had received many blows on the legs, were exhausted and fainted. They tilted the cart. Then Guru Rao and the cart-man fell in the cart along with it. They dragged the Lading out by putting their hands into the cart. As soon as Lading was dragged out I and the cart-man went to a distance and both stood there. They dragged him through the front of the cart and struck him on the neck with kandali near

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the 'mukri' of the cart. It was from behind we came out of the cart as soon as Guru Rao was dragged from the front they spoke in Hindustani. I heard one say to another 'life is extinct, come Ludan, don't fear'. Since one of them spoke in Hindustani I guessed there must have been two or three mussalmans. I have wounded three persons' hands, when they attempted to get into the cart. I cannot recognize any of them though I saw them. All wore choddis and half-arm buniens and kerchiefs round their heads. It was cloudy and there were avenue trees. All were stalwart and sturdy. No short men'. (Vide Exhibit P12, page 143). Cart-driver Hussein substantially corroborates Venkat Rao. It was naturally Hussein that first saw the eight assassins a furlong in front of the cart and drew the Hadig's attention to them. As to what happened during thepursuit behind the cart he was in a disadvantageous position. He had to drive fast for life, looked behind only on hearing the revolver shot and saw a man falling. As to the dropping of the pandavala in the cart and Venkat Rao's using it against three men who seized the cart and attempted to enter it he is naturally and honestly silent. If when the cart was thrown down, cart-man, constable and Hadig fell together and the Hadig was dragged out of the cart and killed near the yoke while Venkat Rao and Husein backed out of it. Hanuma's stories (1) thatthey dragged the Hadig out and the Hadig raised the chopper he had in his hand (Vide Exhibit C4), (2) that the Hadig came out from behind the cart with a kandali and struck on the hand of Ludan (vide confession) and (3) that article 1 was dropped into the cart when it was being capsized and the Hadig took it up and gave blows to accused 4 to 6 (vide Hanuma's evidence before the Sessions Judge), must be false as false can be. It is clear from the accounts of Venkat Rao and

Husseini

Hussaini that the Nadig was dragged out of the cart and was not in a position to resist or strike. That being so the only blows dealt to the accusing were those of Venkat Rao with the pandavala dropped into the cart by the accusing who received the Nadig's revolver shot and fell back. He struck at the hands of three men who attempted to take hold of the cart and enter it and he is clear he injured three men in their hands. Any injury to the head of any of the accusing is virtually precluded by his evidence. The injuries on the head of Chennabasava was examined by the Sub Assistant Surgeon on 23rd February 1917 while Hussaini was examined three days later on the 26th. On the 23rd Chennabasava's wound was almost filled up and Dr. D'Souza was unable to say whether it was caused by a cherry or blunt instrument. On the 26th Hussaini's was still gaping and Dr. D'Souza was able to say it was forcibly caused by a sharp instrument. In those circumstances I am clear that the injuries on the hands of Hussaini and Chennabasava possess no evidentiary value. Chennabasava explains that he struck against the bamboo of the eaves of his cattle-shed. That may be true and is consistent with the medical certificate. Akkira however had a curved linear cicatrix between the ring and little fingers probably due to an injury but he was examined on 4th May 1917 when it had wholly healed. Both Nadig's and Akkira's ran ~~marketing~~ posteriorly and that is in keeping with Venkat Rao's statement that he struck at the hands of three men that seized the cart and tried to get into it. Honnur however says nothing as to any injury to Akkira and I am satisfied from his description of the closing scene and the blows given and received that he could not have been present at it.

5. Coming to the reward and its distribution Linge Gowda offered Rs.600/- when Hanuma first visited Rosahalli and that offer was accepted. Hanuma says so in Exhibit C, and the confession but this had been anticipated by Kollari on the 17th. In Exhibit C, he said 'Chennabasava and Hussain can have taken only Rs.100/- the remaining Rs.500/- and the sum of Rs.700/- promised to the two new men are not yet paid.' Rs.700/- is probably an error for Rs.100/-. In the original diary I find the figure given is Rs.100/-. Exhibit C itself shows that Rs.100/- were to be paid for the two men. Hanuma himself offered to get new men for that sum and the third accused went with 'transit charges' to Hussain, Judan and Chennabasava. The confession contains nothing as to the disbursement as to the promised reward, but his statement that Hussain and Chennabasava left on receiving money for their expenses and returned with two men three days after, is consistent with the statement in Exhibit C, that they took only travelling charges. In Exhibit D, he had the hardihood to depose that out of the sum promised, he himself had received Rs.20/-, 4th accused Rs.100/- and the 7th and 8th accused Rs.20/- while the others got nothing. Exhibit D15/600 suggests not that when 4th accused proposed to fetch new men he was sent with money 'for expenses' and not with the Rs.100/- promised for the services of the two men. In his evidence before the Sessions Judge Hanuma says that on going to Rosahalli from the coffee estate, he and his comrades demanded their reward and that in the Rosahalli areca-nut garden from which they left for Kondajur on their way home, Linge Gowda paid Rs.100/- to Hussain and Judan, Rs.30/- to Chennabasava and Rs.20/- to himself. He also says that when accused 4, 5 and 6 left Lettatavarekere Kechia took Rs.100/- from 3rd accused and paid the same to Hussain while in Exhibit D15 he clearly

suggests

suggests that it was out of money he and Akira had fetched from Kosahalli that Machia paid accused 4,5 and 6 for expenses. According to Exhibit C_1 Chennabasava and Hussein got Rs.100/-and the rest got nothing while according to his evidence Hussein and Sudan got Rs.100/-. According to Exhibit P_{15} Chennabasava got nothing but he got Rs.50/- according to Hanuma's latest version. Seventh and eighth accused got Rs.20/- according to Exhibit P_{15}, but according to his evidence before the Sessions Court Hussein took Rs.100/- for them and presumably paid that sum and they got nothing else. The reward is disproportionately small and even contemptible with reference to the work demanded, and Hanuma's stories as to its distribution are inconsistent and incredible.

6. As to the conspiracy in the Yennehole Gutt at Turikere, it is clearly a later invention intended to incriminate Purude Gowda and Mukambudi Hariah clothed with a wealth of circumstantial details and put into the mouth of Ramaiah. This story Hanuma gave out only after Purude Gowda was arrested (vide page 65, lines 5 and 6), and Exhibit C_1 and the confession contain no reference to it. They show that he and his companions went straight to Kosahalli from Ajjampur and that the promise to murder and the reward therefor were settled with Linge Gowda at that first visit. Manjunda's name does not appear in Exhibit C_1 or the confession nor any visit to Turikere. Even when the Amildar promised to make him an approver Hanuma did not remember anything about Purude Gowda or Hariah or the Yennehole Gutt. He was however able to depose as follows before the Sessions Judge. "Machia, Pakira, Manjunda, Basappa, Hollari and Hanumantha, were talking under a Banian tree ..... on the following morning I and Gerabasappa went to Hodagagur station.

[illegible] Machia, Bakira, Manjunda and Basappa at the Station. Machia took us to Karuballi. We stayed there two days in Machia's house. Machia sent us back. Twenty days later Machia, Kadirappa, Kollaru, Manjunda and Bakira came to call me and Gerabasappa. They came thrice, but we sent them away saying we had work. A month elated later they all (or) again, met in a temple, and sent for me, Gerabasappa and Hussaini. Machia stayed two days in Gowda Siddappa's house in Kallur and Hussaini brought Rudan and Chenbasava. We spoke to each other about the murder. We all came in the train to Harihara. Machia took us to Kempahole's hut at Harihara. Hanga Gowda was there. After supper Gerabasappa, Machia, Rudan, Hussaini, Chennabasava, Bakira, Manjunda and Hanga Gowda talked to each other. All consented to murder Guru Rao. Bukkambudi Veria and Divani Murde Gowda came to the hutt in the evening. They spoke to all of us in the presence of Hanga Gowda and Machia. [illegible] told Accused 1 and 11 that Rudin should be murdered. Kadirappa told Hussaini, Rudan, Chenbasava, Gerabasappa, Kadirappa and Manjundappa to murder the Rudin and all should come by instructions of accused 1 and 11. Veria and Murde Gowda left next morning. Then accused 1 and 11 took us to Kondalli in the ~~eve~~ evening of that day. We stopped in Hanga Gowda's house for three days. I and Gerabasappa left for our village. Eight days later Hussaini came to our village. Four or five days later Machia and Bakira came and ordered me, Gerabasappa and Hussaini to go to Kondalli. Rudan came to my village that night. In Chenbasava's house at Ullagar we went to Kallur to take him. Chenbasava brought Rudhanna to Kallur. Rudan looked as them to be in the cart-man engaged by Chenbasava. We never left Machia Koldhal by midnight where Rudan and Chenbasava left us for a time & returned with two bundles of new clothes. We reached Honkipur at day-break and there Rudan and Chenbasava removed the dhoti from the bundles. I and Gerabasappa went

sent by train to Tarikere and thence to Nemmalli. Linge Gowda was not there and we went to his garden and told Siddaramappa to send a cart to Tarikere for Machia. Siddaramappa met us in the garden which is a mile from Linge Gowda's house. We returned to the house in the evening. After a time Machia and the others arrived in Sudan Raig's cart. After supper Linge Gowda remonstrated with us for not turning up as promised. We said the murder should be committed, as we were willing to pay any price that we demanded and would bear all court expenses in connexion with the offence.' It was fixed after all this, according to Kanunda, that Rs. 1,000/- was asked for and Rs. 600/- offered and accepted at Nemmalli. This story is entirely inconsistent with the story told in Exhibit C_1 shortly after the murder, and up to the departure from Yennehole Mutt conforms to the story of Kanjunda, while Exhibit C_4 in what it omits viz. the name of Kanjunda and the conspiracy at the Mutt, and in that it relates, conforms to the prior statements of Kollari. The various statements of Kanjunda show he has a fertile and unscrupulous imagination and a great faith in the power of multitudinous details to compel credence. He received the imprimatur of the Deputy Commissioner a powerful officer with a great reputation as a crack police officer as the deus ex machina of the prosecution, and though he was content to work through Jerubasappa to begin with appears to have completely dominated the investigation in its final stages. The Amildar states that he verified the statements of Jerubanaya and Kanjunda by examining Kollari and Kanuna and was satisfied as to their truth on 17th February (page 121, l. 58-60). It is therefore very unlikely that either Kanjunda or Jerubasappa mentioned anything about the conspiracy at the Tarikere Mutt before the 17th February. It must have been a later

invention

invention of Ranjunda whose statement was recorded only on 19th March two days before Hanuma was examined by the Committing Magistrate. The Amildar says he examined Hanuma only once, but he used to question him whenever the accused or witnesses said something, for the purpose of verification' but did not reduce his subsequent statements to writing. The Amildar is a many-headed hard-worked officer and his investigation was exceedingly lax. As many as five accused (four to eight) were sent in a batch to Shimoga to make their confessions but they returned on 4th March without doing so. He did not mix others with the accused and ask the witnesses to identify. He did not get Mahazars in the case of identification of the accused by the witnesses except in the case of Sera and Lala. Whenever he had heavy work he used to detain witnesses for a day. He made no enquiries at the Yennehole Gutt, though it is in Barikere itself. In such circumstances the lesser police officers had necessarily full scope to do as they liked and there can be little doubt that Hanuma was tutored time after time as fresh incidents were gathered from witnesses or the accused. The Yennehole Gutt conspiracy is no doubt one of such incidents and was in all probability invented by Ranjunda to incriminate Seria and Purne Gowda.

10. Coming to the Condedahalli incident the party according to Exhibit C_1 and the confession stopped in the second accused's garden for 2 days. There is no reference to any attempt on the Sadig in either of these statements. On the other hand the Sadig was so powerful that he caught Thimappa at Condedahalli, had him dragged to Ajjampur and kicked and taken to task by the Jemadar, and in consequence Hanuma and his companions left for Bettadapura. It would appear however from Hanuma's evidence before the Sessions Judge that the party stayed in Chickpriappa's

garden

garden for fifteen days and made four attempts on Guru Rao's life on the high road between Gondedahalli and Ajjampur in open country and within about a mile from Ajjampur. He deposed as follows:- 'Three or four days after we went to Gondedahalli second accused told us to lie in wait for Guru Rao on his way from Ajjampur to Lagvalli. Accused 4,5,6, 9,11,12, Kolluruppa, T.Basappa and myself went armed with weapons and sat by the side of the road mid-way between Ajjampur and Gondedahalli. The Hadig's cart came and Nachia gave the signal. We were ready to attack. Kolluru said that as soon as he fired we should approach him. Before he could fire some carts from Ajjampur side came. We gave up the attack and came to the garden. We made three more similar attempts which were foiled by the approach of carts from one or other side. Nachia then took us to Lettadavarekere saying that Hadig was not to be caught at Gondedahalli.' I have already discussed the discrepancies between Exhibit C_1 and the confession in regard to this incident, his calling Chickkariappa Veera Gowda and his forgetting Hidda's name in 24 hours. I may remark in passing that in Exhibit C_1 Hanuma was content with one woddar to drive the cart from Hosahalli to Gondedahalli, but in his evidence he would have two woddars Rama and Lachma whom he duly identified before the Sessions Judge. The evidence of Ciriappa may now be considered. Hokke Ciriappa is the officiator shanbhog of Hokke. He and Chickkariappa were deadly enemies. In the latter part of October 1916 he had sent a report in duplicate to the Deputy Commissioner and the Superintendent of Police charging Chickkariappa with serious crimes (vide Exhibits P_{22} and P_{23} pages 147-148). He was a friend of the Hadig from his infancy and in the Lallanahalli riot which according to

to the prosecution was the immediate cause of the conspiracy at the Yennehole Hutt. Giriappa was the most prominent adherent of the Hadig. It would appear that as Lingo Gowda was being beaten at Pallenahalli the Hadig vociferated 'Sandow, Sandow' in appreciation of Giriappa's prowess. Giriappa gave evidence as follows:- 'In January 1917 as there was plague at Ajjampur I was living in sheds at Gondedahalli. The Hadig came to my shed in a cart driven by Huseini to pick me up. I went to his cart and saw fifth accused passing near it. Huseini questioned him but got no answer. The fifth accused went to the cattle shed of second accused (Chickkariappa). Huseini dragged him out. He dealt blows to him. He brought him near the lantern and he said he was a madigar of Ramagiri and had gone to Bagavalli to drink toddy. The Hadig said I need not take him to the Ajjampur Police Station. The cattle-shed of the second accused is in the court-yard of his house.' Huseini (11th witness for the prosecution) corroborates him though he was unable to identify the fifth accused. He had not mentioned this incident to the Amildar and it was no doubt a later invention. Huseini however deposes that Giriappa's house in Gondedahalli 'was close by second accused's house'. According to both Huseini and Giriappa's evidence Chickkariappa's house afforded no protection from intrusion by the Hadig and his men. That with Sandow Giriappa by his side and the Hadig a mile below him, Chickkariappa harboured a number of assassins in his garden close to the cart-track to the high road and that these assassins made four attempts on the Hadig's life on the open high road within a mile and a half of Ajjampur is as improbable a story as a court was ever asked to believe. Hadig Guru Rao was an active guild and

and friend of the Tarikere Police. Medigar Sidda is the toddy shop-keeper of Bagavalli. The Hadig had given him 'express directions to make enquiries about new men and inform him' and the Hadig according to Sidda 'was the father of the village'. Sidda was examined by the Amildar on the 19th February evidently to corroborate the statements of Hollari and Hanuma of the 17th and 18th respectively that Medigar Sidda who had instructions from 'the father of Bagvalli' to give him information about new visitors to his shop, gave information to Chickkariappa and his hirelings about the movements of the Hadig to facilitate his murder. According to his statement of the 19th February Sidda stated that Chickkariappa told him that 'Rachia had brought the partizans of Hosahalli Linge Gowda in order to get Hadig Guru Rao murdered', that he should supply toddy to three of those men and not reveal the fact of their coming to his shop to anybody.' In his evidence ~~—~~ and in answer to the court he stated that Chickkariappa told him not to trouble the fourth and 9th accused and the approver as to their identity and to give toddy for cash. The Sessions Judge was not satisfied with this and apparently in response to further pressure by the Judge Sidda stated that Chickkariappa told him on proceeding a little further that the drinkers 'belonged to the party of Linge Gowda and Rachia and that they had come there'. The learned Sessions Judge then attempted as he did in the case of several other witnesses to make him swallow the whole of his statement before the Amildar but the reply came: 'I did not give the statement Exhibit C_3 before the Amildar: I don't remember they told me they belonged to Ramagiri: second accused did not tell me they belonged to first accused's party and were brought by Rachia to murder

murder the Nadig.' The Sessions Judge was entitled to use Exhibit C_3 to aid him in the trial and to put it in to corroborate or contradict his sworn testimony and his discretion in the matter of putting questions for the elucidation of relevant facts under section 165 of the Evidence Act is much wider than that of a party. Apart however from the relevancy of Exhibit C_3 it is unthinkable that Chickakariappa was so foolhardy as to send his hirelings to Sidda's Bagavalli shop for toddy and inform Sidda that they belonged to the party of Linge Gowda and Nachia. I have no doubt that the fifteen days' stay at Gondedahalli and four attempts on Guru Rao's life are as mythical as the conspiracy at the Yennehole Kutt. There is evidence to show that Patel Putte Gowda of Chetnahalli was a powerful enemy of the Nadig, and that Chetnahalli Nanganna was beaten almost to death by the Nadig's men in the Kallanehalli riot. Kornhalli Seranna (forty second witness for the prosecution) who according to Nanjunda looks after the Savemurdi Kavak on behalf of Patel Putte Gowda of Chetnahalli deposes to a conspiracy in Putte Gowda's house to invite the Nadig to Kornhalli and murder him there. Whether the alleged conspiracy be true or not it is clear that Chetnahalli and Kornhalli were inimical to the Nadig and their situation within two or three miles of the Sivapur station, below the high hill which rises right below the scene of murder, and immediately to the south of the Railway line, renders it practically certain that the assassins were harboured in one or other of them and were concealed in the road-side hill before starting to make the final attempt.

11. As to the contract with the first accused at Hosahalli and the arming of the party with weapons, a scrutiny of Hanuma's different statements show material discrepancies which it is needless to discuss at length.

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The story is that as settled at Hosahalli they went armed to Gondedahalli to make the attempt. The settlement and arming at Hosahalli are inseparable from the journey to Gondedahalli during which four attempts were made on the Madig, and holding the ~~first~~ visit to Gondedahalli to be factitious I have no hesitation in rejecting Hanuma's story of the conspiracy and arming at Hosahalli as a preliminary to the attempt from Gondedahalli. Hanuma mentions Gyarmardi familiarly enough in his evidence, but ~~in~~ in Exhibit C_1 it was only 'another village' on the way from Hosahalli to Gondedahalli, and the information he gave as to the contract and the arming in his earliest statement Exhibit C_1 was nothing new even then. It is improbable as I have already remarked that ten persons, Hanuma, Jaddar Hanumantha, Kollari, Nerabasappa, Lakkasappa, Husein, Budan, Chenbasava, Lakshmana and Fakir undertook the risk of murdering Madiga Guru Rao for Rs. 600/- , and it is exceedingly unlikely hire-lings would make such an attempt without securing a substantial advance. Machia himself appears to have been a substantial man commanding a great respect, Hanuma and his party were ready to follow him to Mukondahalli or elsewhere for the work of murder, and if Machia was the prime mover in the conspiracy it is much more reasonable to suppose that the murder-price was settled by him at Kaloor or Tonnemahalli before Huseini left Kaloor to fetch Budan from Kulsagar.

It. For the rest several men of straw have deposed to tempting offers made by Linge Gowda to induce them to murder Guru Rao, or to gratuitous information furnished by Linge Gowda that the murder had taken place. The evidence of Narasappa of Chivani (50th witness for the prosecution) deserves special notice. He is a Kuruba

and

and Purde Gowda is the head of the Sivachar faction in Sivane against the Kurubars. He is a beggar and lives by begging according to his own evidence. He says that eight or ten days before the Antareghatta Dana which fell on the day of the murder Purde Gowda gave him a double-barrelled gun and a chit to be handed over to Linge Gowda at Hosahalli. On his way to Hosahalli he luckily met first accused at Kettadavarekere near a stream in the company of the third and fifth accused and faithfully delivered the gun and the chit. It is unnecessary to comment on evidence of this kind. To crown all, Hanuma deposed before the Sessions Judge as follows:- The cloth that I am wearing was purchased by Linge Gowda (1st accused) at Tarikere and sent to me through a police man while I was at the Taluk lock-up at Tarikere. This was given to me after I was examined by the Committing Magistrate. The police man told me the panche was sent to me by the first accused. It was given to me in the night.' Having regard to the above statement of Hanuma most of the evidence relating to the identification of the accused in the Tarikere lock-up is necessarily worthless in the admitted absence of the ordinary safe-guards considered essential in identification parades. The investigation was unsatisfactory to a degree and the Amildar says :- 'I did not mix others with the accused and ask witnesses to identify: I did not get get mahazars made in regard to identifications except in the case of Mera and Dala: I have no record to show ek when and by whom each witness was brought for examination; nor is there any record to show how long each witness was kept before examination.' I have already set out at leg length my reasons for holding that approver Hanuma's evidence must be rejected in its entirety. He is unmarried and says he was not a

friend

friend of any of the accused that he had never before joined accused 4, 5 and 6 to commit any offence and that he joined the accused solely to get money which they promised. Ulcered and weakened in the leg by venereal disease he was probably very worn out like the clothes he wore and it is almost unthinkable that anybody considered him fit and offered him money for the work of high-way murder. It is much more probable that Kaloor Nerabasappa (whom he knew from infancy) and Nanjunda promised to get him made an approver and offered him money to confess, in the hope that with his hereditary power of memory he would make a reliable mouth-piece for their stories.

15. Hanuma's evidence and most of the other evidence for the prosecution being rejected the only question is whether there is other reliable and independent evidence justifying the conviction of any of the accused. I think there is such evidence against the fifth accused Nudan. I am satisfied the evidence of Lala (23rd witness for the prosecution) is quite reliable in so far as he identifies the fifth accused as the man who was walking about in front of the Mandi and abused him 'tut Nanchod' when questioned as to his native place. He was examined on the 16th February before the Amildar went to Kodaganur, and had informed Thiwar Hanuma of Kornhalli the very day after the murder, of the man he had seen the previous day and the abuse he ~~has~~ had received. He made his identification before a large number of panchayatdars. He naively deposes that the panchayatdars were able to see the fifth accused identified by him. The identificatio took place on the 6th March within a week of the accused 4 to 9 being brought to Harikere. I have carefully examined his previous statements. I am satisfied he

correctly

correctly identified Ludan and that his identification having regard to place, time and distance, is reliable. If Ludan of Kulsagar was seen by Collar Bala in the Save-mardikaval very close to the scene of murder with a number of strangers and within two or three hours of the murder, that fact is strong evidence against him. Venkat Rao stated immediately after the murder that he had cut the hands of three men who laid hold of the cart from behind and ~~I~~ tried to get into it. Ludan's injury on the right thumb cutting the nail and extending five inches along the back of the thumb strongly suggests he was one of the three men referred to by Venkat Rao. Exhibit P_5 shows he had also a minor injury on the radial side of the right index finger which had almost healed up when he was medically examined on 26th February 1917 and the Sub Assistant Surgeon certifies these injuries were about three weeks' old. The probability that he received these injuries at the hands of Venkat Rao is not weakened by the explanation he offered before the Committing Magistrate which he affirmed before the Sessions Judge. There is also the circumstance that both Musseini and Venkat Rao stated the very day after the murder that one of the assassins told another 'come Budan, life is extinct, no fear'. That must have been addressed to the man who was actually killing the Madig. The words were in Hindustani and there can be no doubt that a Mussalman named Budan did the actual work of killing and it is almost certain he alone did it as the post-mortem report shows that the Madig had only three deep wounds on the back of the head one below the other with three fractures corresponding to the three wounds. The cumulative effect of these circumstances is sufficient in my opinion to fix the guilt of the murder on Budan the first accused and I would affirm his conviction and sentence.

The

The convictions of the other appellants must be set aside and they must be acquitted. The Government appeal against the acquittal of Chickkariappa must be dismissed.

14. The investigation was unfortunately in the hands of a weak acting Amildar who appears to have been put into the executive line late in life and not long before the murder. He omitted even elementary precautions in identification parades and in the matter of promptly sealing and despatching to the Chemical Examiner blood-stained articles connected with the murder. The murder took place about 6-30 P.M. All Tarikere must have known of it by 9 P.M. and the murderers had no chance of leaving Shivapur by train before 11 P.M., Ajjampur before 11-30 P.M., or Birur before 12 midnight, and an efficient Amildar would have arranged to search the platforms of these stations as well as the Savemurdikaval and the Chetnahalli, Kornhalli, Dettadhalli and other villages close to it. Nanjunda was probably one of the party of murderers, Huseini's early statement refers to his taking the Wadig from Bagavalli to Tarikere the day before the murder but does not refer to Nanjunda, and the Tarikere Jemadar does not corroborate Nanjunda's statement that on the day before the murder he too was put up in the Jemadar's house with the Wadig. His statement that he was asked on the day of the murder by the Wadig to go to Birur and see the Murugiswami and join him the day after the murder is incredible and the probabilities are he was disappointed in the matter of his reward and turned informer. It is very unlikely that Kunta Huseini was in the murder, though it is very probable he secured the services of his brother Budan and the seventh and eighth accused at the instance of Bachia. Bakira has a tell-tale injury in his hand and was probably in the murder. Bachia and his brother have married Bommenhalli girls, Bachia is an itinerant trader and

and the conspiracy was probably hatched in Lommenhalli which is close to the villages of Kollari and Gerabasappa who probably took part in the murder. much larger sum than Rs. 600/- must have been disbursed to secure the hirelings and it is not unlikely several well-to-do persons including the first, second and tenth accused supplied Nachia with funds for the purpose. Venkat Rao stated that not one of the assailants was short, but Honbasappa is a short man and the probabilities are that he and Lakshmana got mixed up with the conspirators in the course of their journeyings and were incriminated by Ranjunda, Gerabasappa and Kollari to take their place in the final scene. In conclusion I must say that the remarks on the investigation by the learned Sessions Judge are mostly ill-considered and those remarks and his questions to the prosecution witnesses betray a highly unjudicial frame of mind.

Sd/- T.Paramasiva Iyer,

J U D G E.

Pages 1635 2 Mar 24

T.G.

ORDER OF REFERENCE.

As we differ in opinion as to the correctness of the convictions of Rachia and Chennabasava we refer under section 429, Criminal Procedure Code, to a third judge the question whether these persons have been rightly convicted and sentenced

We acquit and direct the release of Linge Gowda, Hussein, Imam, Muhammad and Fakira.

We confirm the conviction and sentence of Budan.

Sd. Leslie C.Miller,
Chief Judge.
Sd. T. Paramasiva Iyer,
Judge.

HCC.1.

IN THE CHIEF COURT OF MYSORE AT BANGALORE.

Monday, the 25th day of February 1918.

Before Mr. Justice K. S. CHANDRASEKHARA AIYAR.

Criminal Appeals Nos.142 and 143 of 1916-17.

Criminal Referred Case No.2 of 17-18.

Petition of Criminal Appeal No.142 of 1916-17/Criminal Referred Case No.2 of 1917-18 against the conviction and sentence by the Sessions Judge of Shimoga, under Section 302 of the Indian Penal Code, in Kadur Sessions Case No.6 of 1916-17.	Appellant CHANNABASAVA. (6th accused) By Mr. C. Narayana-swamy Naidu and Mr. C.S.Doraswamy Iyer Govt: Advocate for Government.

and

Petition of Criminal Appeal No.143 of 1916-17/Criminal Referred Case No.2 of 1917-18 against the conviction and sentence by the Sessions Judge of Shimoga, under section 302 read with section 109 of the Indian Penal Code in Kadur Sessions Case No. 6 of 1916-17.	1st APPELLANT. RACHIAH. (11th accused) By Mr. K. Shankara-narayana Rao, and Mr. C. S. Doraswamy Iyer, Government Advocate for Government.

These appeals coming on for hearing on Wednesday, Thursday, Friday and Saturday, the 6th, 7th, 8th and 9th days of February 1918 respectively, on a reference under section 429 of the Criminal Procedure Code, the Court delivered the following:--

O P I N I O N.

Owing to a difference of opinion between the learned Judges of the Court of Appeal, the question of

the

the correctness or otherwise of the conviction and sente of two of the appellants, Rachia and Channabasava, has been ferred to me under section 429 of the Criminal Procedure e. The parties concerned have thereupon been given a full h ng, and the matter exhaustively argued. But since the evid pertaining to the two appellants whose case has alone be- ferred is for the most part identical with that relating he other accused persons, and that evidence has been set ou reviewed in considerable detail in the judgments of the Judge Sir Leslie Miller and Paramasiva Iyer, J, no useful pose will be served by a repetition of the same at this s of the case. I shall content myself with indicating briefly the conclusions at which I have myself arrived after an independent examination of the available material.

2. That the murder of Ladig Guru Rao on Tuesday evening the 6th February 1917 at Davenardi Kaval was the result of a conspiracy on the part of his enemies is a fact beyond dispute. In regard to the details of the conspiracy and the various persons concerned therein we have a mass of evidence, among the rest that of prosecution witnesses Nos.9,39,41,51 and 53. Whatever the weight due to particular portions of their evidence, taken as a whole it leaves no doubt in my mind that the appellant Rachia (11th accused in the Court of Session), who, like the first accused Linge Gowda, had strong reasons, some of it of very recent origin, for bitter hatred against the deceased, was among the most active members of the conspiracy, and that the appellant Channabasava (6th accused) joined the gang that was organised to carry out the common object, some time after the riot in Hallenahalli in November 1916, when the first and eleventh ~~appellants~~ accused received a severe thrashing at the hands of Guru Rao's men. I pass on to consider the evidence relating to the main incident of the murder.

3. The case for the prosecution rests very largely upon

the testimony of the approver, Agasara Hanuma (prosecution 9th witness); and most of the difficulty felt in the case has been to determine how far that testimony can be relied upon. This man was examined on four different occasions, and his statement taken down by as many different officers; first, on the 18th February 1917, the day of his arrest, by the investigating police officer; again, on the following day, by the Sub Divisional Magistrate of Davangere, who recorded his confession; next, on the 21st March, but this time as a witness, on tender of pardon, by the Committing Magistrate; and lastly, on the 10th May and the days following, when he was examined and cross-examined at great length in the Court of Session. That a comparison of these various statements should reveal a large number of discrepancies of additions, omissions and embellishments, is not, in the circumstances, and regard being had to the character of the man and the position in which he stood, a matter for surprise; it emphasises the need for caution in accepting the statement of the approver on any point, especially where it is not corroborated; but I do not think it justifies us in rejecting his testimony altogether. We are bound to see how far apparent variations are reconcilable, and in any case whether they could have been made consciously or with a sinister purpose, or are merely accidental variations with no particular significance attaching to them.

4. In the absence of warrant from a scrutiny of this kind, the mere existence of inconsistencies does not afford a very convincing foundation for the theory that Agasara Hanuma has no personal knowledge of what he speaks of. The fact that his statements in regard to the details of the conspiracy to murder Guru Rao are in several respects accordant with the information received by the Police from other sources, such as Kollari, Virabasappa and Nanjundappa, may well be regarded as affording <u>pro tanto</u> corroboration to his testimony, rather than as a reason for treating him as a tutored witness. And as for the ulcer on Hanuma's leg which is urged as a ground for doubting his having taken any part at all in the murder, I do not think there is

anything

anything inherently improbable in a man with a painful sore in the leg joining a gang of assassins, engaged for hire and well supplied with weapons, to make an attack on an unexpectant victim. On the other hand, the idea of the police coaching up and putting forward as their principal witness a man who knows nothing whatever of the complicated facts of which he is expected to speak is so very improbable that it need not be seriously considered.

5. Judging indeed from the materials on record, the fact appears rather to be that Agasara Hanuma not only supplied a great many details regarding the antecedent conspiracy and the actual murder of the Nadig, but also gave definite information on or about the 17th February about the persons that took part in the murder as well as the wounds received by at least three of them, (the 4th, 5th and 6th accused),--information ~~regarding~~ which there is nothing to show the Police previously possessed, and which must have materially helped them to trace out the offenders. The information which had been previously furnished by the two companions of the murdered man, Constable Venkata Rao(prosecution 10th witness) and cartdriver Hussein (prosecution 11th witness) only went to suggest that some of the assailants might possibly have received some injuries either from the Nadig or from the Constable in the course of the attack. In appraising the value to be attached to the Constable's assertions regarding the injuries believed to have been inflicted on three of the men, allowance must be made for the state of his mind at the time of the incident; according to the Amildar, the witness continued to be in an"agitated condition" even on the day following the murder, and"there was difficulty in getting answers from him". The approver, on the other hand, as a member of the gang, was naturally in a position to know more accurately the nature of the injuries sustained by his companions, even though of the details of the

attack

attack he may not have been fully cognizant, as he says he came up only after his companions had overturned the cart and were already in the act of attacking Guru Rao. It may be mentioned, in passing, that the supposed variation in the approver's description of the injury sustained by the 4th accused is no variation at all, being due to the word ತಲೆ (sic for ತಲೆ) or "head" in Exhibit C_1 being misread as ತಲೆ or "hand".

6. According to the evidence of the approver, which on this point is in entire harmony with his previous statements, the 6th accused Channabasava, who, as previously observed, had joined the conspiracy some time after the Lallenahalli riot, was one of the actual assassins of Guru Rao. He had been deputed to shadow the deceased's movements; and at the time of the final attack he with the 5th accused dragged out Guru Rao from the cart and hit him on the head with a Kandali, himself receiving an injury on the head somewhat earlier in the course of the attack. As regards his presence near the Savemardi Kaval shortly before the murder, on his return from Tarikere, there is the evidence of prosecution 12th witness Gauravva, corroborated by prosecution 15th witness Daval Sab, which I see no reason to doubt. The goatherd Era (prosecution 24th witness) also identifies the 6th accused as among the persons whom he saw at the Kaval, near the scene of the murder, at about 5 P. M.; his companion Lala (prosecution 23rd witness), who was seated in a different place, did not himself see this accused, but he saw the approver, and his identification of the 5th accused Budan has been accepted as reliable by both the Judges of the Court of appeal.

It is unnecessary to refer to the evidence (some of it of doubtful reliability) relating to the subsequent acts of the assassins and their dispersal to their homes; but the

evidence

evidence of the cartman Halappa (prosecution 20th witness), of Mahadevanna (prosecution 21st witness), and of Hayath Sab (prosecution 22nd witness), regarding the peregrinations of the 6th accused and his companions shortly after the murder, is useful in that it tends, as far as it goes, to probablise their presence earlier in the vicinity of the Kaval. Prosecution 20th witness supplies a piece of valuable corroborative evidence when he says that the 6th accused had a wound on his head over which he had stuck a piece of paper, this being 4 or 5 days after the murder.

Finally, the 6th accused has, without obvious inducements of any kind, made of his own accord two statements, once in the course of the trial before the Sessions Judge and again in a petition addressed from Jail to the Chief Court, in which he has unreservedly confessed his share in the murder But altogether apart from these confessions, and solely upon the evidence available, I am satisfied that he was one of those that took part in the murder of Guru Rao, and that his conviction therefore must be affirmed.

7. Turning next to the case of the 11th accused Rachia, I have already alluded to the strong motive he had for revenging himself on Nadig Guru Rao as well to his position as one of the leading spirits of the conspiracy. It is clear from the statement of prosecution 34th witness Nanja, corroborated by prosecution 35th witness Talwar Hanuma, that he was at Bettataverekere in the garden of the 3rd accused about the end of January 1917 in the company of other suspected persons, among the rest the 6th, 9th and 12th accused, Kellari and the approver. Coming on to the day of the murder, barber Kalla(prosecution 32nd witness) swears to having seen Rachia near the Savemardi Kaval at 10 A.M.; so also Pujari Hanuma (prosecution 33rd witness) to his presence shortly thereafter this witness adding significantly that Rachia did not want his

presence

presence to be disclosed. The Sessions Judge has characterised the witness as a man of no substance who lives by begging; but this is clearly erroneous and not borne out by the evidence.

The approver is positive that Rachia was also present with the actual assassins at the time of the murder, and incited them in their attack on Guru Rao. I see no good reason to doubt his statement on this point. The Sessions Judge also seems to find this when he says (in para 33 of his judgment) that "Rachia brought the assassins and remained with them all along and encouraged them to murder Madig." That being so, section 114 of the Indian Penal Code applies, and the 11th accused must be deemed to have committed the offence of murder punishable under section 302. The Sessions Judge convicts him under section 302 read with section 109; but in this he has apparently overlooked the scope of the additional charge framed against this accused (under sections 302 and 114). After all, however, section 109, which is the general abetment section, does not exclude the particular case, dealt with in section 114, of the abettor being present when the act is committed. I would, in the circumstances, affirm the conviction of the 11th accused Rachia for murder.

8. Turning to the question of punishment, there are, as far as I can see, no extenuating circumstances in favour of either of the two appellants, and no particular reason why their cases should be treated differently. If Chennabasava's hand inflicted the blow, Rachia's was the mind that hatched the plot. The crime itself was a brutal one instigated by bitter personal hatred, long cherished. The sentence of death must in my opinion be affirmed as regards both the appellants Rachia and Chennabasava.

Order of reference
Pages 167
&

sd/- K.S. Chandrasekhara Aiyar

J U D G E.

True Copy
S. Venkata Ranga Iyengar
By Registrar
&

ISC.

G. R. S. VI—G/32]

SUBJECT.....

.....

.....

Confidential

Diary No. of letter replied to.....

Section cb

File No. 1917

Serial No. 2

GENERAL AND REVENUE SECRETARIAT

( )

, the 191 .

No. J 4624 Records papers

Date of issue 11/5/18

To

Signed by W. C. Balasundar

for

Dear Sir,

I am desired to forward herewith the memorials of Budan Chennabasava & Rachia, accused in Kadur Sessions case no. 6 of 1916-17 (case relating to Nadig Guru Rao's murder) now under ~~sentenced~~ of death & to request ~~to be favoured~~ Government with your confidential opinion as to whether any clemency ~~in the matter~~ may be shown on the ~~representation~~ memorials now received.

~~A copy of the judgment of the Chief Court in the case~~ The entire records of case also

over.

Enclosed for reference & return with the reply.

Yours Sincerely

Sir Leslie C. Miller,
Chief Judge of the
Chief Court of Mysore

List of enclosures.

Copied by

Examined by

WD86—GPB—60,000—15-11-16

A.J. REV. Sec
11
27 MAY 1918

D2 No 745 with 3 bundles of records
1917-18

03257

GEN. & REV. SECRETARIAT
III
JUDICIAL
21 MAY 1918

CHIEF COURT OF MYSORE,
BANGALORE.
Dated 20th May 1918.

J2715
1917-18
Chief Courts
1917

From

N.T. GOPALIENGAR, Esquire, B.A., LL.B.,
Registrar of the Chief Court of Mysore.

To

C.S. BALASUNDARAM IYER, Esquire, B.A.,
Chief Secretary to the Government of Mysore,
Bangalore

S i r,

I am directed by the Chief Judge to return the records sent with your D.O. No. J. 4624 for reference.

I have the honour to be,
Sir,
Your most obedient servant,

N. Gopalaiengar

REGISTRAR.

N.G.

G. R S. VI—S-III/33]

DRAFT.

SUBJECT.....

.....

.....

Section. Cs
File No. 230-17
Serial No. 4

No. J 5770 / Encl 3 Records (3 bundles)

Diary No. of letter replied to.....

To

The Registrar of the Chief Court of Mysore.

GENERAL AND REVENUE SECRETARIAT,

( )

, the.....*191* .

Date of issue..... 25. 6 18

Signed by. W. M. Venkatesa

Dy Sec

SIR,

I am directed to forward herewith for information of the Judges of the Chief Court and for communication to the prisoners Bandam, Channabasava & Rachiah ..... undergoing sentence of death .... in the Bangalore Central Jail, copy of order passed by H. H. the Maharaja of Mysore, on the prisoner's memorials .....

2. The entire records received with your letter No. 526 dated 6th April 1918 are herewith returned.

I have, etc.,

15.6.18

for Chief Secretary.

W/24

In the Matter of a Memorial

of Budan 5th accused in Kadur Sessions case no. 6 of 1916-17 on the file of the Sessions Judge, Shimoga Division & appellant in Criminal Appeal no. 141 on the file of the Chief Court, praying that the sentence of death passed on him may be quashed.

His Highness the Maharaja

directs

that the memorial be rejected.

Date of order: 12th June 1918.

Draft

CRJ 17/6/18

RW 17.6.18.

Dewan.

22.6.18

In the Matter of a Memorial

of Channabasava, 6th accused in Kadur Sessions case no. 6 of 1916-17 on the file of the Sessions Judge, Shimoga Division and appellant in Criminal Appeal no. 142 of 1916-17 on the file of the Chief Court, praying that the sentence of death passed on him may be quashed,

His Highness the Maharaja

has been pleased to direct that the sentence of death be commuted to one of transportation for life.

Date of order: 12th June 1918.

Draft

CR/196-
17.6.18.

Dewan.
22.6.18

WD 02264—GPB—500—5-2-17